A COMPILATION

OF THE

REGULATIONS AND CIRCULAR ORDERS

RELATIVE TO

THE RESUMPTION AND SETTLEMENT OF ESTATES,

HELD FREE UNDER INVALID TENURES, OR AT AN INADEQUATE JUMMA, IN THE PERMANENTLY SETTLED PROVINCES,

---

CORRECTED TO THE 31st DECEMBER, 1842.

FROM THE SERAMPORE PRESS.

1842.

THE following Compilation embraces all the Regulations and the Circular Orders which have been passed relative to the Resumption of rent-free tenures held under invalid titles, as well as of tenures held at an inadequate jumma, together with the rules by which the Settlement of such lands is regulated. These Enactments are arranged under three divisions; the first of which embraces the Principles of Resumption; the second, the Process of Investigation and Resumption; the third, the Settlement of the resumed tenures. The Introduction contains a brief Epitome of the various Enactments and Orders, interspersed with such observations as appeared likely to elucidate the subject, and to explain the progress of legislation relative to these tenures. The Addenda comprises those Circular Orders which have been issued while the Editor was engaged in translating the work into the Bengalee language. An accurate Index of all the Regulations and Orders introduced into the work will be found at the close of it.

JOHN C. MARSHMAN.

SERAMPORE,
Dec. 20th, 1842.

CONTENTS.

CHAPTER I.

PRINCIPLES OF RESUMPTION.

Page.

SECTION I.—Declaratory Declaration, ... 1

II.—Periods of the acquisition by the British Government of the Territories subject to the Presidency of Fort William, ... 2

III.—Badshahee Grants, ... 2

IV.—Conditions necessary to the validity of Badshahee Grants, made previous to the British Rule, ... 6

V.—Hookamee or non Royal Grants, ... 8

Of Grants made in the Ceded and Conquered Provinces and Cuttack TWELVE years prior to the acquisition of those provinces by the British Government, ... 15

VI.—Grants and Confirmations of Lakheraj Tenures since the commencement of British rule, ... 17

VII.—Conditions necessary to constitute Badshahee Lakheraj Tenures hereditary, ... 20

VIII.—Conditions necessary to constitute Hookamee Lakheraj Tenures hereditary, ... 21

IX.—Of Grants not exceeding ten bigas, or appropriated to religious, charitable, or useful purposes, ... 26

X.—Lakheraj Tenures to what extent transferable, 30

XI.—Registration of Grants, ... 31

XII.—Register of Lands by the Public Officers, ... 36

XIII.—Penalty for non-registration, ... 57

XIV.—To whom the proprietary right of resumed lands belong, ... 61

XV.—To whom the Revenue assessed on resumed tenures belong, ... 63

XVI.—Null and void Grants, ... 70

CONTENTS

Page

SECTION XVII.—Money Pensions in lieu of Lakheraj Lands, 72
XVIII.—Canoongoe Lands, . . 72
XIX.—Thanadaree and other Police Lands, . 77
XX.—Mocurreries, ... 80
XXI.—Towfeer, ... 83
XXII.—Alluvial Land, . 87
XXIII.—Puteetabady and Jungleboory Talooks, 91
XXIV.—Sunderbunds, ... 91
XXV.—Of Land in the possession of no one, . 93
XXVI.—Invalid Jaygeer Establishment. Rules regarding Invalid Jaygeers in Bengal, Behar, and Orissa, in 1793, 94
Rules regarding Invalid Jaygeers in Benares, 97
Revised Rules regarding Invalid Jaygeer and Pension Establishment, 100
Heirs of Jaygeerdars, . 106
Authority of the Sudder Board of Revenue to confirm Permanent Settlements of Jaygeers of Invalids, 112
XXVII.—Limitation of time for the cognizance of rent-free suits, ... 112

CHAPTER II.

PROCESS OF INVESTIGATION AND RESUMPTION.

SECTION I.—Appointment of Collectors to commence investigations, . 114
II.—Appointment of Special Deputy Collector to investigate Resumption cases, 117
III.—Preliminary Proceedings, 124
IV.—Examination of the Validity of Documents, 136
V.—Investigation, 137
VI.—Proceedings of the Collector (Special Deputy Collector,) after investigation in districts not within the jurisdiction of a Special Commissioner, . 140
VII.—Proceedings of the Collectors, after the investigation of claims, in districts within the jurisdiction of a Special Commissioner, 146
VIII.—Measurement and disputed boundaries, 156
IX.—Special Commissioners, ... 161

		Page.
SECTION	X.—Rules of Practice in the Court of the Special Commissioner, ...	17[illegible]
	XI.—Rules for Admission of Appeals, ...	173
	XII.—Rules regarding Pleadings, ...	176
	XIII.—Rules regarding Default, ...	178
	XIV.—Rules regarding Evidence and Fees, ...	183
	XV.—Rules regarding Mooktars or Agents, and their remuneration, ...	184
	XVI.—Rules regarding Decrees and Costs of Suit,	185
	XVII.—General Rules, ...	186
	XVIII.—Of claims for rent-free lands, preferred by one private individual against another, or against Government, ...	187
	Extract from the Court's Resolution of the 19th October, 1832, on the annual civil statements of Zillah Chittagong for 1831,	188
	XIX.—Rent-free lands held by independent Chiefs,	197

CHAPTER III.

SETTLEMENT OF RESUMED BADSHAHEE AND HOOKAMEE TENURES.

SECTION	I.—Settlement of Badshahee Tenures, ...	198
	II.—Settlement of Hookamee Tenures, ...	203
	III.—Indulgence to disseized holders of Badshahee Grants, ...	208
	IV.—Amount of Assessment, ...	211
	V.—Settlement of Lands under a hundred bigas,	218
	VI.—Assessment of Chur Lands, ...	218
	VII.—Confirmation of Settlements, ...	220

ADDENDA, ... 225



CHAPTER I.

PRINCIPLES OF RESUMPTION.

SECTION I.

General Principle.

"By the ancient law of the country the ruling power is entitled to a certain portion of the produce of every bigah of land unless it transfers its right thereto for a term or in perpetuity. As a necessary consequence of this law, every grant or alienation of the Government proportion of the produce of the lands without its sanction, was null and void. Had the validity of such grants or alienations been admitted, it is obvious that the public revenue would have been liable to gradual diminution."[a] Such is the Declaration of Right promulgated by Government in the original Code of 1793. Declaratory provisions were also enacted by Regulation 14, of 1825, reasserting that the power of granting or confirming rent free tenures belongs and always has belonged to the Supreme Government; and that no act, order or decision granting or confirming any such tenures within the territories subordinate to this Presidency, after their annexation to the British dominions, should be held valid, unless under the immediate direction of the Governor General in Council, or by those to whom such power had been delegated.[b]

a Reg. 37, 1793. Preamble.

b Reg. 14, 1825, Sect. 2.

SECTION II.

Periods of the acquisition by the British Government of the Territories subject to the Presidency of Fort William.

To fix the period at which these territories were considered to have been acquired by the British Government, the following recapitulation of the respective dates was made in 1825, from previous regulations.[c] "The 12th August, 1765, for the provinces of Bengal, Behar and Orissa, (excepting the district of Cuttack and the pergunnahs of Puttaspore, Kumardichour, and Bograe.) The 1st July, 1775, for the province of Benares. The 1st January, 1801, for the provinces ceded by the Nawaub Vizier. The 1st January, 1803, for the territories ceded by Dowlut Rao Scindia and the Peishwa. The 14th October, 1803, for the district of Cuttack and the pergunnahs of Puttaspore, Kumar-

c Reg. 14. 1825, Sect. 3, Cl. 7.

dichour and Bograe. The 1st November, 1817, for the elakeh of Khundeh, and the other territory ceded by Nana Govind Rao."

SECTION III.

Badshahee Grants.

Under the former governments, grants of rent-free land, were sometimes made for life, or in perpetuity, by the Supreme Power, for the time being, as a reward for public or private services, occasionally with, and often without conditions. These grants, made or confirmed by the Crown, are usually termed *Badshahee or Royal Grants.* The British Government, on the acquisition of the country, resolved to uphold and confirm such grants according to the terms of the gift; but as no register existed, or was forthcoming, of the tenures which had been thus guaranteed, a wide field was opened for fraud and collusion. Deeds were fabricated, and antedated, and drawn up in the names of those who had never enjoyed the supreme power, and the revenues of the state were threatened with the most serious injury. Government resolved to resume all such illegal and fraudulent tenures after due examination of their character.[a] Hence it became necessary to define accurately the Potentates who were recognized as having possessed the power of making grants of free land previous to the accession of the British Government. These were therefore defined to be, "The Emperors of Delhi, throughout the territories. The Soobadars of Bengal, Behar and Orissa.[b] The Soobadars of Oude in the Province of Benares.[c] The Soobadars of Oude and the Nawaubs of Furruckabad in the provinces ceded by the Nawaub Vizier, and the Princes of Rohilkund prior to the 23rd April, 1774, in the province called Rohilkund.[d] Dowlut Rao Scindia, or his predecessors in authority, in the conquered provinces of the Dooab, and on the right bank of the Jumna. The Peshwa and his predecessors in the territories ceded by the Peshwa in Bundlekund.[e] The Soobadars of Orissa and the Rajas of Berar, in the district of Cuttack.[f] Raja Chuttersal and his predecessors in the territory ceded by Nana Govind Rao, previously to the Mahratta conquest of that territory in the year A. D. 1730, and subsequently thereto, the Peshwa."

And it was farther declared, that if grants were produced which were claimed as having been given or confirmed by any other Prince, said to have been vested with the supreme power, the question should be referred to the decision of the Governor General in Council.[g]

a Reg. 37, 1793, Preamble.

b Reg. 14, 1825, Sect. 3, Cl. 5.

c Reg. 42, 1795, Sect. 2, Cl. 1. d Reg. 36, 1803, Sect. 2, Cl. 1. e Reg. 8, 1805, Sect. 24, Cl. 1, 2. f Reg. 12, 1805, Sect. 25, 26, Cl. 1.

g Reg. 14, 1825, Sect. 3, Cl. 5.

SECTION IV.

Conditions necessary to the Validity of Badshahee Grants previous to the British Rule.

The conditions necessary to the validity of Badshahee Grants, were laid down for the provinces of Bengal, Behar and Orissa, in the Regulations of 1793.[a] The same rules were subsequently made applicable to the same description of grants in Benares;[b] to the Ceded Provinces;[c] to the Conquered Provinces;[d] and to Cuttack;[e] and they were thus recapitulated and more clearly defined in the Regulation of 1825:

a Reg. 37, 1793, Sect. 2, Cl. 1, 2.

"That they were made and confirmed within the period during which the person granting or confirming it possessed and exercised supreme power within the territory in which the lands specified in the grant are situated. 2. That the grantee actually and bonâ fide obtained possession of the land granted within the same period. 3. That the grant was not subsequently resumed by the officers or orders of the Government previous to its acquisition by the English, or if resumed, that the competence of the Officer to resume had been disallowed by the British Government."[f]

f Reg. 14, 1825, Sect. 3, Cl. 6.

This enactment was farther explained by the orders of the Executive Government of the 17th August, 1840, which direct that when the plea for resumption is, that the original grantee did not obtain possession of the grant while the grantor exercised supreme power in the territories, the Government prosecutor is to prove the affirmative of the plea. The Lakrajdar moreover is not required to prove subsequent non-resumption of the grant by direct evidence; but if such resumption be alledged as a ground for resumption, it must be proved by the Government prosecutor.[g]

g Govt. Ord. Aug. 17, 1840, par. 9.

SECTION V.

Hookamee or non Royal Grants.

Independently of these grants from the Crown, grants of land to be held free from assessment had been made previously to the accession of the British Government by Zemindars, Amils, and other subordinate officers, who had been appointed to collect the public revenue, under the pretence that the proceeds of the land were to be applied to religious or charitable purposes. Some of these grants were thus appropriated, but the greater part were given, for the personal advantage of the grantee, or with a view to the clandestine appropriation of the public revenues. Such grants have been distinguished as *Hookamee,*

b Reg. 42, 1795, Sect. 2, Cl. 2, 3.
c Reg. 36, 1803, Sect. 2, Cl. 2, 3.
d Reg. 8, 1805, Sect. 24, Cl. 1.
e Reg. 12, 1805, Sect. 26, Cl. 2, 3.

or non royal tenures. The British Government adopted the principle that all such grants, made before the date of its accession, should be held valid, to the extent of the intentions of the grantor, if the grantees had obtained actual possession of them, before the Dewanny. But as no Register of these lands existed, it was found that after the establishment of the British authority, large tracts of land had been alienated by the Zemindars; and these Government determined to resume.[a]

a Reg. 19, 1793. Preamble.

With reference, therefore, to *Hookamee* or non royal grants, it was ordained that they should be considered valid if the grantee had obtained *possession* of the land before the undermentioned dates, by whatever authority the grant might have been made, and whether by a writing or without one, if it had not been subsequently subjected to the payment of revenue by a competent authority.[b] Some of the Resumption Officers, having resumed Hookamee tenures, on the ground of the want of authority in the grantor to make such grants, the Board, in 1838, recalled the attention of the officers to this enactment of 1793, explaining what was meant by the term *whatever authority*, and directing all such cases of resumption to be revised.[c] [The Board of Revenue has likewise ruled that when there had been instances of unauthorized interference and aggression, this should not be considered as invalidating the claim, founded on uninterrupted possession.] If it appeared that the grantee did obtain possession of the land before the Dewanny, and the lands had been subsequently assessed, and the competence of the resuming officer to resume was doubted, the question was to be referred to the decision of Government. But no claim to hold such land exempt from Revenue which had been assessed for the twelve years preceding the date of the claim, was to be heard by any Court, unless the claimant produced sufficient reason for not having preferred it before.[d] The same rules were extended to the Province of Benares.[e] Corresponding rules were enacted, for the Ceded and Conquered Provinces and Cuttack, with this difference, that the grants in those provinces, which were thus to be admitted by whatever authority made, were to be such of which possession had been obtained (not as in Bengal, Behar, Orissa, and Benares, up to the date when British authority was established in them, but) *twelve years previously to the accession of British rule*,[f] The periods therefore previous to which mere possession was admitted as the test of validity were these;

b Reg. 19, 1793, Sect. 2, Cl. 1.

c Cir. Ord No. 76, Nov. 27, 1838.

d Reg. 19. 1793, Sect. 2, Cl. 2.

e Reg. 41, 1795, Sect. 2, Cl. 1, 2.

"The 12th August, 1765, if the land be in the province of Bengal, Behar, or Orissa, (excepting the district of Cuttack and the pergunnahs of Puttaspore, Kumardichour, and Bograe.) The 1st July, 1775, if in the province of Benares. The 10th November, 1789, if in any of the

f Reg. 31, 1803, Sect. 2, Cl. 1. Reg. 8, 1805, Sect. 21. Reg. 12, 1805, Sect. 18, Cl. 1.

provinces ceded by the Nawaub Vizier. The 1st January, 1792, if in any of the territories ceded by Dowlut Rao Scindia, or the Peishwa. The 14th October, 1791, if in the district of Cuttack or the pergunnahs of Puttaspore, Kumardichour or Bograe. The 1st November, 1805, if in the elakeh of Khundeh or other territory ceded by Nana Govind Rao." These principles for determining the force and validity of Hookamee grants, together with the dates above mentioned, were recapitulated in Regulation 14, 1825. It was also ordered, that derivative tenures should follow the condition of the principal tenure; that is, if tenures, such as jaygeers, had been given for a certain period, or on certain conditions of service, the resumption of the original tenure should involve the resumption of all the grants which had grown out of it. It was directed likewise that the proof of possession, and of the hereditary nature of the tenure, should lie on the claimants.[a]

[a] Reg. 14, 1825, Sect. 3, Cl. 1, 2, 8.

In the Ceded and Conquered Provinces and Cuttack, grants made during the *Twelve* years which preceded the acquisition of the Provinces by the British Government, viz. "Subsequently to the 10th November, 1789, and prior to the 1st January, 1801, if the land lay within any of the provinces ceded by the Nawaub Vizier; subsequently to the 1st January, 1792, and prior to the 1st January 1803, if within any of the territories ceded by Dowlut Rao Scindia, or the Peishwa; subsequently to the 14th October, 1791, and prior to the 14th October, 1803, if in the district of Cuttack or the Pergunnah of Puttaspore, Kumardichour or Bograe; subsequently to the 1st November, 1805, and prior to the 1st November, 1817, if in the elakeh of Khundeh or other territory ceded by Nana Govind Rao," were to be recognized as valid on the following conditions. 1st. That they were made or confirmed by some Authority which the British Government has recognized as competent to do so. 2dly. That the grantee actually obtained possession of the land prior to the date of the acquisition of the province by the British Government; and 3dly. that the revenue of the land had not been subsequently resumed by a competent authority. If the competence of the resuming officer to resume, was brought in question, it was to be referred to the decision of Government.[b]

And as a general rule it was provided by Regulation 14, 1825, that in case *any* rent-free tenure had been resumed *before* the acquisition of the country by the British, and the competency of the resuming officer to resume was questioned, the matter should be referred to the decision of the Governor General in Council; and that all questions touching the validity of grants made or confirmed by any but the Su-

[b] Reg. 31, 1803, Sect. 2, Cl. 2, 3. Reg. 8, 1805, Sect. 21. Reg. 12, 1805, Sect. 18, Cl. 2, 3.

preme Authorities, or the legal effect of resumption by a subordinate officer of the former government, which had not been provided for in the Regulations, was to be referred to the Governor General.[a]

a Reg. 14. 1825, Sect. 3, Cl. 9.

SECTION VI.

Grants and Confirmations of Lakhraj tenures since the commencement of British rule.

With regard to *Hookamee grants* made since the accession of the British Government, it was ordained that those made in Bengal, Behar and Orissa between the 12th August, 1765, and the 1st December, 1790, by any other authority than that of Government, and which had not been confirmed by Government, or an officer empowered to confirm them, should be invalid.[b] If doubts arose about the competency of any officer to confirm such grants, the question was to be referred to the decision of Government.[c] But this rule was not to be considered as subjecting to the payment of revenue grants made previously to B. E. 1178 or F. E. 1179, (as the grant might be in Bengal, Behar or Orissa) under the signature and seals of the chiefs of the late Provincial Councils, in land of which the annual produce did not exceed one hundred Rupees.[d] Nor to be considered as annulling any rent-free grants made or confirmed by the superintendent of the late Baze Zumeen dufter.[e] The same rule was extended to Hookamee grants made in Benares, since the 1st July 1775, and previous to the beginning of Fusilee 1196, with the same proviso regarding a reference to Government, if the competence of the officer to confirm was brought into question.[f] Corresponding enactments were passed, with the same proviso, for the Ceded Provinces in reference to all non royal grants made since the 1st day of January 1801.[g] And the regulation was extended to the Conquered Provinces, (with the same proviso of reference to Government) regarding all such grants made after the 1st January, 1803.[h] Grants of this nature in the province of Cuttack, were declared subject to the same rule if made after the 14th day of October, 1803, and the question of the competence of any officer to confirm such grants, was to be referred to Government.[i]

b Reg 19, 1793, Sect 3, Cl. 1.

c Ibid, Sect. 3, Cl. 2.

d Ibid, Sect. 3, Cl. 3.

e Ibid, Sect. 48.

f Reg. 41, 1795, Sect. 3, Cl. 1, 2.

g Reg. 31, 1803, Sect. 3, Cl. 1, 2.

h Reg. 8, 1805, Sect. 21.

i Reg. 12, 1805, Sect. 19, 20.

All *Badshahee* grants, made in Bengal, Behar, and Orissa, since the 12th August, 1765, except by Government, and which had not been confirmed by Government, or by a competent officer, were declared to be invalid.[j] The same rule was applied to similar grants in Benares made since the 1st July, 1775, unless made by Government, and confirmed by it or by a competent authority. But grants made by the Residents at Benares since that date, were not to be annulled by the Civil Courts, but the competence of the authority which granted

j Reg. 37, 1793, Sect. 3, Cl. 1, 2.

them was to be referred to Government.[a] The same rules were applied to the Ceded Provinces,[b] to the Conquered Provinces,[c] and to Cuttack.[d] And the same provision was made in all these cases, as in those of Hookamee Grants that, if the competence of an officer to confirm such grants came into question, the decision should be referred to the Governor General in Council.

a Reg. 42, 1795, Sect. 3, Cl. 1, 3.

SECTION VII.

Conditions necessary to constitute Badshahee Lakhraj tenures hereditary.

The most important question connected with free tenures, both royal and non royal is, how far they are to be considered hereditary. For, as none of the present possessors of them, are the original grantees, if the tenure be not allowed to be of a hereditary character, the establishment of its validity cannot prevent its being resumed. In regard therefore to *Badshahee grants* in Bengal, Behar and Orissa, it was decreed in 1793, that if lands then paying revenue to Government were claimed to be exempt from such payment, under a jaygeer or other grant made previously to the Dewanny, the exemption from revenue should not be allowed, when the deeds expressly specified it to have been a life grant only; or, when the grant was silent on this point, or no grant was forthcoming, where from the nature and denomination of it, it was considered only as a life grant according to the usages of the country.[e] The heirs of those who then held lands free from assessment under a jaygeer, or other Badshahee life grant, made before the Dewanny, were not to hold the lands free on the death of the present possessor, when the grant expressly specified that it was a life grant only, or if the deed was not forthcoming or was silent on this point, when it was proved from its nature and denomination to be a life grant only, according to the usages of the country.[f] The present possessors of grants thus declared not to be hereditary, were forbidden, to sell, transfer or mortgage the lands beyond the period of their own lives, and all such transfers and mortgages were declared illegal.[g] The same rules were subsequently enacted for Benares, the Ceded and Conquered Provinces and Cuttack; only that the dates were altered to correspond with the period when the British authority was first established in them.[h] It was also directed that Royal Al-

e Reg. 37, 1793, Sect. 2, Cl. 3.

f Ibid, Sect. 2, Cl. 4.

g Ibid, Sect. 2, Cl. 5.

b Reg. 36, 1803, Sect. 3, Cl. 1, 2. c Reg. 8, 1805, Sect. 21. d Reg. 12, 1805, Sect. 27, 28.

h Benares, Reg. 42, 1795, Sect. 2, Cl, 4, 5, 6. Ceded Provinces, Reg. 36, 1803, Sect. 2, Cl. 4, 5, 6. Conquered Provinces, Reg. 8, 1805, Sect. 24. Cuttack, Reg. 12, 1805, Sect. 26, Cl. 4, 5, 6.

tumgah, Ayma and Mududmash grants were absolutely to be considered hereditary and transferrible;[a] but this was modified in 1828 as we shall hereafter notice.

a Reg. 37, 1793, Sect. 15.

SECTION VIII.

Conditions necessary to constitute Hookamee Lakhraj tenures hereditary.

With regard to the hereditary character of *Hookamee grants*, it was ordained in 1793 in reference to Bengal, Behar and Orissa, and subsequently in reference to other provinces, that, the heirs of the original grantee should not be entitled to have and to hold the land rent free under a grant made before the Company's accession to the Dewanny, where the writing expressly specified that it was a life grant only, or if there was no such specification, or if no writing was forthcoming, where the grant, from its nature and denomination, was proved, according to the usages of the country, to be a life tenure only.[b] The heirs of persons then holding land free from assessment under such grant made before the Dewanny, were not to succeed to it, if the writing expressly specified that it was only a life tenure; or, supposing there to be no specification, or no writing had been executed, or was forthcoming, where from the nature and denomination of it, it was proved, by the usages of the country, to be only a life tenure. The heirs of the possessor of such a free-tenure, of which the writing did not specify whether it was hereditary or not, were not to succeed to it, except it was proved to the satisfaction of the Court that the tenure was hereditary according to the ancient usages of the country. On the demise of the present possessor of a grant adjudged not hereditary, if it appeared that one or more successions, in virtue of whatever right, had taken place before the date of the Dewanny, the lands were not to be assessed without the sanction of the Governor General.[c] The present possessors of such free tenures held under life grants and declared by the clause above not to be hereditary, were forbidden to sell, transfer, or mortgage them beyond the period of their own lives. But if such life grants had been confirmed as hereditary by Government or its competent officers, the lands were not to be assessed; and the provisions in this and the preceding clause were not to be applied to them. Any doubts regarding the competency of the officer to confirm them, were to be referred to the decision of the Governor General in Council.[d]

b Reg. 19, 1793, Sect. 2, Cl. 3.

c Ibid, Sect. 2, Cl. 4.

d Ibid, Sect. 2, Cl. 5.

These principles were subsequently recapitulated and explained in 1825, and it was ordered that Hookamee tenures of which uninterrupted possession had been held at and subsequently to the accession

of the British Government, in the various provinces, should be considered valid without any formal grant or confirmation, and should be continued to the heirs, if, from the nature and denomination of the grant, it was hereditary according to the ancient usages of the country. This rule was not to apply to tenures derived from a jaygeerdar, or other person who at that period held lands upon a temporary and conditional tenure. If the original tenure was resumed, the tenure derived from it was to be resumed also.[a] The proof of possession, and of the hereditary nature of the tenure was to lie on the person claiming to hold it free of assessment.[b] But although one or more successions had taken place, before the establishment of British rule, this was not to establish a title of inheritance, unless the tenure was clearly of an hereditary nature, or the hereditary right had been admitted by the Governor General in Council.[c]

But in 1828 it was enacted in reference to all grants, royal or non-royal, that all tenures which the specification in the Register did not purport to be held under a hereditary title, or a perpetual endowment, should be considered liable to resumption, unless the tenure had been declared hereditary by a Court of Judicature, on the demise of the persons who held them, when the first Resumption laws were passed for each province; and Collectors were ordered to assess, and if necessary attach such lands, any thing in the Regulations to the contrary notwithstanding. And it was provided, moreover, that the nature of the tenure, whether hereditary or not, should be construed, when the title deeds were forthcoming, in reference to the *whole matter* contained in such deeds, and not merely from the *designation* of the tenure. Jaygeers were therefore not to be regarded as life grants, when the grant evidently conveyed a hereditary interest; and no tenure, however designated, was to be considered hereditary, unless the grant conveyed in express terms a hereditary and perpetual interest.[d]

This enactment was modified in practice by the Orders of Government of the 17th August, which grant considerable indulgence to the holders of Lakhraj tenures. They direct, regarding all rent free tenures held since the 12th August 1765, that if it be proved that one or more successions took place before that date, the tenure shall not be considered resumable. And even where there be no proof of succession, if there be strong ground of presumption in favor of hereditary possession before that date, Government will abandon the prosecution of the claim by lapse, and not require proof of hereditary conditions in the grant.[e] Also, that if the lands have been held for objects which are permanent and perpetual, and the produce continues to be applied to those objects, the rule of Reg. III. 1828, Sect. 12, by which the tenure would be resumable, through the omission of words declaring perpetuity in the grant, shall not apply. But if the grant be a charitable provision for one or more persons, and not an endowment for objects of unlimited

[a] Reg. 14, 1825, Sect. 3, Cl. 2.

[b] *Idem*, Sect. 3, Cl. 3.

[c] *Idem*, Sect. 3, Cl. 4.

[d] Reg. 3, 1828, Sect. 12.

[e] Govt. Order, 17, 1840, § 5.

duration, it shall be construed according to its terms.[a] And in reference to the Province of Cuttack, persons who have held their lands on a free tenure from the acquisition of the province by the British to the present date, shall enjoy them during their lives; and any prosecution for a claim to resume such lands shall be only for an award to take place after the decease of the possessor.[b] It was also ordered that titles to hold land should not be questioned on the sole ground, that the specification of the title in the Registry *did not state them to be permanent and perpetual tenures*, if otherwise, they had been so rated.[c]

a Govt. Order, August 17, 1840, Rule 6.

b *Ibid*, Rule 7.

c *Ibid*, Rule 11.

SECTION IX.

Of Grants not exceeding ten bigas, or appropriated to religious, charitable, or useful purposes.

From the earliest period, it has been the practice of Government to exempt from assessment all lands, not exceeding 10 bigas, and appropriated bonâ fide as endowments of temples, or for the maintenance of brahmins, or other religious or charitable purposes. The enactment on this subject for Bengal, Behar and Orissa appears to direct that all grants, not exceeding ten bigahs made between 1765, and the Bengalee year 1178, whether for the life of the grantee or otherwise, and bonâ fide intended by the appropriator as an endowment on temples, or for the maintenance of brahmuns, or other religious or charitable purposes, are to be upheld. All grants not exceeding ten bigahs which were made prior to 1765, whether intended or not to be applied as above, but which were so applied at the period of the enactment 1793, should likewise be upheld.[d] A subsequent Circular Order directed the settlement officer, when he found land in possession of the priests or religious advisers of the great body of the cultivators, the aggregate quantity of which was not disproportionate to the size and wants of the village, to make a specific recommendation on the subject to the Board, to be by them presented to Government; but this recommendation was not to interfere with the assessment of the land.[e] The rule of 1793 was extended to Benares.[f] Farther provision was made, for lands so held, not exceeding ten bigas, in grants made prior to their acquisition, in the Ceded and Conquered Provinces and Cuttack.[g] An exemption from assessment was also made in favour of certain religious endowments in Cuttack.[h] On this subject, the Circular Order No. 11 of 1840 declares that Government had vested the Revenue Commissioners with power to confirm all settlements of such lands, under ten bigas.[i]

These rules were farther explained in 1840, when Government or-

d Reg. 19, 1793, Sect. 3, Cl. 4.

e Cir. Ord. No. 11, March 14, 1836.

h Reg. 12, 1805, Sect. 8.

i Cir. Ord. No. 11, March 14, 1840.

f Benares, Reg. 41, 1795, Sect. 3, Cl. 3. g Ceded Provinces, Reg. 31, 1803, Sect. 2, Cl. 7. Conq. Provinces, Reg. 8, 1805, Sect. 21. Cuttack, Reg. 12, 1805, Sect. 18, Cl. 7.

dered, that no suit should be preferred or maintained on the part of the state for *any* lands not exceeding ten bigas which had been held uninterruptedly free from rent since the 1st December 1790. This indulgence was irrespective of the object to which the rent of the land was applied; but in Chittagong, Sylhet, and Cuttack, it was to be granted only in cases in which the rent had been applied to religious or charitable purposes. In Cuttack, the proof of uninterrupted possession was not to be required farther back than the 14th October, 1803.[a] The confirmation of such claims by the Board of Revenue was to be final; and the parties interested were to receive a sunnud from the Board relieving them from all farther claim.[b] In estates, acquired by Government and about to be farmed, the farmer was to be bound by express stipulation not to resume any such grants, under the privileges conceded to Zemindars in the perpetual settlement.[c]

a Govt. Ord. August 17, 1840, Par. 1.

b *Idem*, Par. 2.

c *Idem*, Par. 3.

In 1836 Government requested that when in the course of resumption, any case came under the notice of the Special Deputy Collectors, in which lands or money had been appropriated to purposes of *Education*, whether the grant was upheld or resumed, a full report of all circumstances should be made to Government.[d] This order was enlarged, in 1840, and it was ordered, as a general rule with regard to lands of which the rent has been consecutively applied to objects of *religion, charity or general utility*, whether within or above ten bigas, and whether held without interruption since 1790, or not, that the public officer employed to prosecute the claim, should report the fact through the prescribed channel to Government.[e]

d Cir. Ord. No. 54, Oct. 28, 1836.

e Govt. Ord. August 17, 1840, Par. 4.

SECTION X.

Lakhraj tenures to what extent transferable.

As it regards the transferable nature of rent-free tenures, the Regulations of 1793 provided in reference to *Hookamee* tenures, that grants which from the terms, or the nature of the tenure, were hereditary, and were declared valid by Reg. 19, of 1793, or which had been confirmed by the British Government, or its officers, were transferable by sale, gift, or otherwise; and that all persons succeeding to them were to register them in six months at the office of the Collector. But that such purchases were made at the risk of the purchaser; since, if the grant did not prove to be hereditary, or to have been made or confirmed by the British Government, or its competent officers, the transfer would not bar its assessment.[f]

f Reg. 19, 1793, Sect. 20.

The same rule precisely was adopted with regard to *Royal* grants, with the addition that Altumga, Ayma, and Mududmash grants were declared absolutely hereditary, and Jaygeers not so.[g] These rules were ex-

g Reg. 37, 1793, Sect. 15.

tended without modification to the other provinces.[a] But the enactment appears to have been essentially modified by Reg. 3, 1828, Sect. 12.

SECTION XI.

Registration of Grants.

In 1793, all persons holding lands under *Hookamee* tenures of whatever extent, exempt from the payment of public revenue by virtue of grants made previous to the 1st of December, 1790, were directed to register them in the office of the Collector of the Zillah.[b] To prevent any plea being thereafter urged of ignorance of this rule, the Collector was ordered to issue a Proclamation in the Native languages, attested by his seal and signature, and to cause it to be fixed in the principal cutchery of every proprietor or farmer of land, of every Native Collector of Khaus lands; and where the estate was in different pergunnahs, in the principal cutchery of each pergunnah, and to take a receipt from each proprietor, farmer, or native officer, specifying the day on which it was fixed up. The Proclamation required every person in actual possession of rent-free lands, of whatever description, to register them with all particulars in twelve months from that date, and ordained, that if any land was not thus registered by the proprietor and others in person or by their agent, it should be considered liable to assessment. But those who had claims to free land not in their possession, were not to register them. The Register was to specify, 1. the denomination of the grant; 2. the name of the grantor; 3. the name of the original grantee; 4. the name of the present possessor, and if he were not the original grantee, his relationship to him, and the mode in which he came into possession of the grant; 5. the date of the deed, or of the day on which the grant was made; 6. the names of the village or villages comprized in it; 7. the measurement of the village, or of the land included in the grant; 8. the pergunnah in which it was situated; 9. a copy of the original deed or of the writings under which the grant was held.[c] Any omission to register the grant with all particulars, in the specified period, made it liable to assessment, and the Collector, if the land exceeded a hundred bigas, was directed to proceed to assess it; if under that amount, the party to whom the revenue of the lands was payable, was empowered to assess it. But the Governor General reserved the right of subsequently admitting grants on the register, if sufficient reason was shewn for their non-registration within the prescribed period.[d] It was also repeated, that after the expiration of the time limited for registering grants, all grants not found on the register, or not subsequently admitted by the Governor General, should be considered invalid.[e] The same rule, with the same particu-

b Reg. 19, 1793, Sect. 24.

c *Ibid*, Sect. 25.

d *Ibid*, Sect. 26.

e *Ibid*, Sect. 27.

a Benares, by Reg. 41, 1795, Sect. 20; Reg. 42, 1795, Sect. 15. Ceded Provinces, by Reg. 31, 1803, Sect. 15; Reg. 36, 1803, Sect. 15. Conquered Provinces, by Reg. 8, 1805, Sect. 21; Reg. 8, 1805, Sect, 24. Cuttack, by Reg. 12, 1805, Sect. 24, 25.

lars was passed in reference to *Royal* grants in Bengal, Behar and Orissa; and the Proclamation was ordered to be fixed up at the principal cutchery of the holders of Badshahee grants;[a] and in 1795, in reference to all royal and non-royal grants in Benares, the date being altered from the English era to the Fussily year, 1196.[b]

In 1800, however, it appeared that the publications above directed had not been made in every instance according to the enactments. The Collectors were therefore ordered to ascertain whether the publication had been duly and legally made, and, if not, to cause them to be made without delay in Bengal, Behar, Orissa and Benares in the manner prescribed, and also in their own cutcheries, and in those of the Civil Courts, and to allow the further period of one year from the date of such republication for the registry of them, after which period, all unregistered lands were to be assessed, and the lands so assessed were to be entered in the quinquennial register of lands paying revenue to Government.[c]

c Reg. 8, 1800, Sect. 19.

On the extension of the British dominions in the North West, the same rule, with the same penalty, was passed, in 1803, in reference to all royal and non-royal grants in the Ceded Provinces made before the 1st of January, 1801;[d] in 1805 they were passed in reference to grants made in the Conquered Provinces previous to January 1, 1803;[e] in Cuttack, the period of one year from the expiration of the current Willaity, 1212, was allowed for the Registry of grants.[f] But in 1808 it was reported to the Governor General that the publications had not been in many instances issued in these provinces according to the prescribed forms; and the Collectors were ordered to issue Proclamations without delay, requiring all persons to register their lands within one year from the date of the proclamation, on pain, in case of non-registration, of having their lands subjected to the payment of revenue.[g] But it was distinctly announced in the respective provinces, in 1793, 1795, 1803, and 1805, that the registry of grants, as above directed, was not to be considered as an admission of the right of the person in whose name they were registered to the property in the soil, or of his title to hold the land exempt from the payment of revenue. He was still liable to be sued for the first by any claimant in the Court, and, for the latter, by the Collector, with the sanction of the Board; the same proviso was made with regard to all grants royal or non-royal, throughout the Presidency.[h]

g Reg. 7, 1808, *Preamble*. Sect. 2, 3.

a Bengal, Badshahee Grants, Reg. 37, 1793, Sect. 19, 20, 21, 22. b Benares, Hookamee Grants, Reg. 41, 1795, Sect. 24, 25, 26, 27. Benares, Badshahee Grants, Reg. 42, 1795, Sect. 19, 20, 21, 22.

d Ceded Provinces, Reg. 31, 1803, Sect. 19, 20, 21, 22. Reg. 36, 1803, Sect. 19, 20, 21, 22. e Conquered Provinces, Reg. 8, 1805, Sect. 21, 24. f Cuttack, Reg. 12, 1805, Sect. 23, 29.

h Reg. 19, 1793, Sect. 28; Reg. 37, 1793, Sect. 23; Reg. 41, 1795, Sect. 28; Reg. 42, 1795, Sect. 23; Reg. 31, 1803, Sect. 23; Reg. 36, 1803, Sect. 23; Reg. 8, 1805, Sect. 21, 24; Reg. 12, 1805, Sect. 24, 25.

SECTION XII.

Register of the lands by the Public Officers.

At the same time, with a view to the acquisition of a complete register of all rent-free tenures, of whatever extent, throughout the provinces, and to prevent any such grants being made in future, the Collector was directed to form a Register of Land held under non-royal grants before the 1st of December, 1790, to contain the nine particulars corresponding with the particulars stated in the preceding Section, to be denominated the Periodical Register of lands held exempt from assessment under non-royal grants made previous to December 1, 1790;[a] the Board of Revenue was to prepare the form of the Register.[b] The period for registering the grants having expired, the Collector was directed to transcribe them into a book named as above. Each leaf was to be paged, and signed by the Civil Judge, who was to note down in his own hand-writing on the last leaf, the number of pages it contained, and then to subscribe it; and no register was to be deemed authentic but those entered in a book thus paged and attested. The first Periodical Register was to be called No. 1.[c] The second Periodical Register, to be made five years after, was to be called No. 2, and so on—a new Register being made [illegible] the lapse of every five years.[d] The keepers of the native records were to keep an exact counterpart of the English Periodical Register in Bengal and Orissa in the Bengalee and Persian languages, and in Behar in the Persian language, and in the Hindoostanee language and Nagree character, in a volume to be in like manner paged and attested by the Judge, and no counterparts were to be deemed valid but those entered in such a book.[e]

a Reg. 19, 1793, Sect. 22.
b *Ibid*, Sect. 23.
c *Ibid*, Sect. 29.
d *Idem*, Sect. 30.
e *Ibid*, Sect. 31, 32.

To record all resumptions and other occurrences respecting rent-free lands in the period of the five years, between the forming of the Periodical Registers, the Collectors were to prepare a book, to be called the Register of Intermediate Resumption and Occurrences respecting rent-free lands under non-royal grants, between the commencement and the end of the year.—It was to be paged and signed with the same formalities as the Periodical Register. In this were to be entered all grants not registered in the prescribed period in the Quinquennial Register, but admitted to the benefit of registration by the Governor General; all grants of free lands adjudged liable to assessment; all rent paying lands adjudged to be rent-free; all grants paying revenue which the Governor General might see fit to renew, and all exempted lands, transferred from, or annexed to, the jurisdiction of the Zillah;[f] of which circumstance the Collectors were to keep one another duly informed.[g] Rules were also laid down for completing

f *Ibid*, Sect. 33.
g *Ibid*, Sect. 34.

the separation of rent-free Muhals from one district, and their annexation to another.[a] The Collectors were enjoined to attest all entries in the Register of Intermediate Resumptions and never to allow it to fall into arrears.[b] A counterpart of it was also to be kept in the native languages, paged and attested under the usual formalities.[c] When the Periodical Register was completed, if any entries were found erroneous or incomplete, either in the English or in the counterpart Native Registers, they were not to be altered or erased, but the error or inaccuracy was to be noted in the Register of Intermediate Mutations, with such particulars as to render a reference to the Periodical Register easy.[d] The same rule was passed regarding the counterpart Registers kept in the Native languages.[e] In case the proprietary right to a grant of free land was under litigation, the name of the actual possessor was to be entered.[f] Any lakhrajdar refusing to furnish the Collectors with information necessary to the completion of the two Registers, was declared liable to a daily fine from the Board; the Collector was ordered to levy the fine. The Board was also to furnish the Collectors with all information they might possess regarding exempted lands, and to grant them all the assistance in their power till the information was furnished.[g] The Collectors were ordered to transmit a copy of the Periodical Registers both in the English and native languages in a book paged and attested like the original Register by the Judge, and also a quarterly copy of the Register of Intermediate Resumptions, to the Board of Revenue, to the Judge of the Civil Court and to the Provincial Court of Appeal. The Board of Revenue was to transmit a similar copy of both Regulations to the Sudder Dewanny Adawlut,[h] and these authorities were enjoined to be particularly attentive to the careful preservation of the Registers both in the English and native languages.[i] The quinquennial Periodical Registers were to be formed upon the original Register, with the data of omissions and additions furnished by the Register of Intermediate Resumptions. Thus the materials for the Periodical Register would be found ready when the period for forming it, arrived.[j] A penalty was also ordered to be inflicted by the Judge on any native public officer or any native servant or dependant, or Assistant of a Collector, convicted of having received directly or indirectly any consideration for registering a grant of free land.[k] When any rent-free land was adjudged liable to assessment, every particular respecting the land, its extent, its proprietor, and the amount of the revenue levied on it, was to be entered in the Register of Intermediate Resumptions, with such indications as to make a reference easy to the place in the Periodical Register where it had been entered; and the same rule was to be observed with regard to land paying revenue which was adjudged to be free, of which an entry was to be duly made in the record of land paying revenue to Govern-

a Reg. 19, 1793, Sect. 35.
b *Ibid*, Sect. 36.
c *Ibid*, Sect. 37.
d *Ibid*, Sect. 38.
e *Ibid*, Sect. 39.
f *Ibid*, Sect. 40.
g *Ibid*, Sect. 41.
h *Ibid*, Sect. 42.
i *Ibid*, Sect. 43.
j *Ibid*, Sect. 44.
k *Ibid*, Sect. 45, 46.

a Reg. 19, 1793, Sect. 21, Cl. 1, 2, 3.

ment.[a] These rules for Registration were extended to all Royal Grants in Bengal, Behar, and Orissa, and to all royal and non-royal grants in Benares.[b]

These enactments were modified in the year 1800, when a new Register was ordered to be opened called the *Pergunnah Register* of Lakhraj lands (of which the details are given below.) It was then enacted that so much of these Regulations as prescribed that the names of villages, or other subdivisions of land, should be specified in the Registers, was rescinded, and it was ordered that the name of the Pergunnah only should be inserted in the Quinquennial Register and the Register of Intermediate Resumptions. The Collectors were directed to see that the names of the pergunnahs, or other local divisions, as well as the number of villages and other subdivisions, should correspond exactly with the Pergunnah Register. And as the Pergunnah Register would also furnish the measurement and rent of lands, it was declared to be unnecessary that these particulars should be entered in the Quinquennial Register, and Register of Intermediate Resumptions. These Registers were in future to be kept only in the English and Persian languages; and the order for furnishing copies of them on the part of the Collector to the Civil Court and the Provincial Court of Appeal; and on the part of the Board of Revenue to the Sudder Dewanny Adawlut, was rescinded. The Civil Courts, when they had occasion to refer to any of the Registers, were to apply to the Collector either for the original or an attested copy of them; and the Sudder Dewanny Adawlut on similar occasions was likewise to apply to the Board of Revenue, and to report to the Governor General when any Registration for which it had made application was not complete. The Collector was required immediately, on taking charge of his office to ascertain whether the Register had been kept up by his predecessor, and to report any neglect which he discovered to the Board of Revenue. The copies which the Collectors were required to furnish of the prescribed Registers to the Board of Revenue were to be sent at the prescribed period, in English and Persian, to the Accountant of the Board, who was to report to the Board the non arrival of any of them within the required time, and to return any which were imperfect for correction to the Collector.[c]

c Reg. 8, 1800, Sect. 11, 12, 15, 16.

The *Pergunnah Register* of Lakhraj lands which Government ordered to be prepared in 1800, was to contain a distinct head for each pergunnah, or for any local division established instead of the pergunnah. The Register was to be divided into two parts; the one for malgoozary, the other for Lakhraj lands.[d] The Lakhraj division was to comprize the following particulars. 1. The denomination of the tenure, as entered in

d Idem, Sect. 3, Cl. 1, 2.

b Bengal, Royal grants, Reg. 37, 1793, Sect. 17, 18, 24 to 41. Benares, non-royal grants, Reg. 41, 1795, Sect. 22, 23, 29 to 46. Benares, royal grants, Reg. 42, 1795, Sect. 17, 18, 24 to 41.

the former Registers ordered in 1793. 2. The name of the holder or holders of the land as entered in the Register of exempted lands prescribed by the Regulation of that year. 3. A detailed statement of the several villages, portions of villages, or other subdivisions of each tenure in the pergunnah, and an accurate enumeration of them. 4. The rukbah or measurement of each village or subdivision, however attained. 5. The gross rents or produce of any village or subdivision, the produce of which may have been ascertained.[a] The first Pergunnah Register was to be prepared for the year 1207, so as to correspond with the Periodical Registers of lands exempt from the payment of revenue, No. 2, which was ordered to commence with the year 1207. This original Pergunnah Register was to stand as No. 1. A similar Register was to be prepared after the lapse of five years in 1212; and thereafter, at the commencement of every fifth succeeding year.[b] For the purpose of recording any alteration in the particulars required for the insertion in the second and subsequent Quinquennial Pergunnah Registers, an intermediate Pergunnah Register was to be kept under the same heads as directed for the General Register, with a note of reference to such parts of the last formed quinquennial register, as might be affected thereby. No transfer or division was to be registered until the assessment had been allotted, and no entry in the Pergunnah Register was to affect the rights of Government, with regard to lands paying or not paying revenue.[c] The same precautions for securing accuracy were to be adopted, which were directed with regard to the Register of Resumptions.[d] The Pergunnah Register was to be made up from the papers already furnished by the proprietors and farmers; and the Collector was at liberty to demand other papers and information connected with the four first heads of the Lakraj register, under the usual penalty for non compliance; but he was not to demand from the Lakrajdars particulars of the measurement or rent of their free lands; which was to be inserted only when it could be obtained by other means.[e] The Register of Intermediate Mutations would furnish the Collector with materials for the intermediate Pergunnah Register.[f] He was ordered to lose no opportunity of collecting information, and to note, when practicable, the boundaries of villages and the limits of pergunnahs. No change in those limits was to be made without the sanction of the Governor General to whom the Board of Revenue was to submit any proposal made by the Collector for changes and alterations.[g] When any lands were separated from one, and annexed to another Zillah, the Collector of the one was to send to that of the other, copies of all entries relative to the lands that they might be inserted in the Register of Intermediate Pergunnah mutations.[h]

[a] Reg. 8, 1800, Sect. 3, Cl. 4.
[b] *Idem*, Sect. 4.
[c] *Idem*, Sect. 5.
[d] *Idem*, Sect. 6.
[e] *Idem*, Sect. 7.
[f] *Idem*, Sect. 8.
[g] *Idem*, Sect. 9.
[h] *Idem*, Sect 10.

As it was necessary that the Collector should be informed of all

changes in the proprietorship of Lakraj lands in order to complete his Registries, it was ordained in 1795, that the Civil Judges should furnish the Collector and the Board with a copy of every decree in suits between individuals, passed by themselves or sent to them to be executed by which the right in, or possession to, Lakraj lands might be affected.[a] All these Rules were extended to the Ceded Provinces in 1803.

a Reg 58, 1795, Sect 3

In 1800 it was farther ordained that any person who might *succeed*, in any manner, to any rent free tenure, should immediately notify his succession to the Collector, with such information as might be necessary to enable him to make the entries in the registers. The Collector after due enquiry. was to make the requisite entry in the Register of Intermediate Resumption of Lakraj lands and the intermediate Pergunnah Register; but this entry was not in the smallest degree to affect the rights of any party whatever. The penalty for not giving the required notice of succession, or for wilful misrepresentation in such matters, was a fine to be fixed by the Governor General. When the successor was a minor, or otherwise disqualified, his guardian was to send in the prescribed information.[b] This rule was extended to the Ceded Provinces in 1803 and to the Conquered Provinces in 1805. But in 1828 the law was rendered more tight. As it was suspected that the rule by which Civil Judges were ordered to send to the Collectors any decrees passed or enforced by them, by which Lakraj tenures might be affected, had not been generally observed; and that by the repeal in 1819 of Reg. VIII 1811, Sect. 9, and Reg. V. 1813, Sect. 9, due provision did not exist for the due transmission of reports regarding successions to Lakraj tenures to the Collector, it was ordained that any persons succeeding to a Lakraj or mokurreree tenure in any manner whatever, should immediately notify the succession to the Collector, and if he failed to do so for six months, the land should be immediately attached by the Revenue Officer; and that though the validity of the tenure might be established, the land should not be restored to the possessor till a fine of one year's rent had been paid. If the land was afterwards adjudged liable to assessment, all the collections made by him, should be refunded; with 12 per cent. interest.[c] When the lands were thus attached, any claim to hold them free of assessment, or on a mokurreree jumma, was to be investigated and decided by the Collector according to Reg. II. 1819, and Reg. III. 1828.[d] In consequence of a mistaken interpretation put on this law by the Collector of Patna, the Board was obliged to declare by a Circular Order that it was to have only a *prospective* effect, and that all notifications which might have been issued under the idea that it was to act retrospectively, were to be recalled.[e]

b Reg. 8, 1800, Sect 21.

c Reg. 3, 1828, Sect 11, Cl. 1, 2.

d Idem, Sect. 11, Cl 3.

e Cu Ord. No. 40, 18th Aug. 1829.

SECTION XIII.

Penalty for non-registration.

In the Regulations enacted for the various provinces, on the subject of registering rent free tenures, it was distinctly ordered that the penalty for non-registration, would be, the resumption of the grant. This rule was repeated in the most express terms, in Reg. III. of 1828, which declared that all unregistered grants, should be and be held liable to assessment; and the Revenue officers were ordered to proceed to assess, and, if necessary, attach all such lands, any thing in the existing regulations notwithstanding.[a] The Revenue officers however having entertained doubts about the unsparing resumption of all unregistered grants; the Board proposed to Government, that the Revenue officer should call upon the party in possession of an unregistered tenure to appear on a fixed day, and prove that the registration law of 1793 had been complied with; or that the non-registration was owing to the laches of the Government officers; and should moreover inform him that on his failing to attend on the day fixed, the lands would be resumed. To the adoption of this process, Government acceded, stating at the same time that the only course to be pursued if a tenure, however originally valid, was unregistered, was to adopt the rule positively laid down in 1828 and resume it.[b] But this rule was practically relaxed in 1840 when the Executive Government ordered that the claim to resume for non-registration should not be urged, except in the case of districts in which duly prepared Registers exist, or the issue of the original Proclamations could be proved. This claim to resume was not to be urged against tenures registered in the Bazee Zumeen Dufter of 1782, or in the Behar office in 1784, or in the Patna Registry office in 1770-71; nor was this claim to be urged against tenures, the knowledge of the existence of which, as lakraj by the officers of Government, could be proved by public acts of Government or its officers of a date prior to the passing of the act under which the registry was made obligatory in each province.[c] In farther explanation of Reg. 3, 1828, Sect. 12, Government passed the following rule: "No party in possession of lands liable to summary assessment, under the provisions of Sect. 12, Reg. 3, of 1828, and the laws therein cited, as far as the same relate to Bengal, Behar, and Orissa, shall be dispossessed; nor, if he be entitled to enter into engagements with Government for the revenue, shall the said lands be subjected to assessment, until the expiration of six months from the date of the Collector's or Deputy Collector's order for resumption, unless the Commissioner of the Division shall consider immediate measures for the assessment of the Muhal, essential to the preservation of its integrity, or to the maintenance if its full.

a Reg. 3, 1828, Sect. 12.

b Cir. Ord. No. 44, Sept 17, 1836.

c Govt. Ord. August 17, 1840. Par. 10.

assets. . In the event of its being deemed indispensable, on the above or similar grounds, to oust the party in possession, or to proceed to an instant assessment, a sum equal to the net Mofussil rental of the Muhal for six months, shall be paid to the party dispossessed from the Treasury of the Zillah Collectorate.[a]

[a] Cir. Ord. No. 7, Jan. 16, 1837.

SECTION XIV.

To whom the proprietary right of resumed lands belong.

In 1793, it was ordered for Bengal, Behar and Orissa, in reference to all *Hookamee tenures*, regarding lands alienated before the 1st Dec. 1790, that all disputes or claims regarding the proprietary right should be settled in the Civil Courts; that the grantee or present possessor should be considered the proprietor, until ousted by a decree; and should enter into engagements for the Revenue chargeable on his lands. If the proprietary right was transferred by a decree of Court, the person succeeding to it became in like manner responsible for the revenue.[b] The advantages of continuing the proprietary right in the grantee or possessor, were then pointed out in the succeeding section.[c] With regard to the proprietary right in *Badshahee tenures* which might be resumed, it was simply declared that all disputes or claims regarding it should be decided in the Civil Courts.[d] These Rules were extended to Benares, to the Ceded Provinces, to the Conquered Provinces and Cuttack.

[b] Reg. 19, 1793, Sect. 4.

[c] *Idem*, Sect. 5.

[d] Reg. 37, 1793, Sect. 4.

SECTION XV.

To whom the revenue assessed on resumed tenures belongs.

In reference to resumed tenures in Bengal, Behar and Orissa, it was ordered in 1793, that the revenue on resumed lands, under a Hookamee grant *not exceeding One Hundred bigahs* of the measure of the Pergunnah, whether lying in one or more villages, within the limits of a permanently settled estate, alienated by one grant made before December 1, 1790, should belong to the person responsible for the revenue of the estate or dependant talook in which the land may be situated, and that he should not be liable to any additional revenue for this augmentation. If the estate or dependent talook was held Khaus at the time, the amount was to be paid to the person to whom its revenues were payable. The land so adjudged was to be considered as a dependent talook.[e] Proprietors or farmers, deeming themselves entitled to the revenue of such lands were to sue for the recovery of them in the Civil Court;* and if they resumed them

[e] Reg. 19, 1793, Sect. 6.

* The rules for the recovery of land under a Hundred bigahs, by Talookdars and others, form a separate Section of Chapter II.

without a judicial decree, were liable to damages. If the estate was held Khaus the right to sue was vested in the person to whom the collections were payable. If held Khaus by Government, the tehsildar was to sue for it.[a] The revenue assessable on land *exceeding One Hundred bigahs*, under the circumstance above mentioned, was declared to belong to Government, the land so adjudged to pay revenue, being considered as a dependent talook.[b] The rule was extended to Benares in 1795, only the extent of the land under consideration was reduced to *Fifty bigahs*;[c] and it was also ordained, that the proprietors or putteedars should not assess it till they had obtained a decree in Court declaring their right. When the land was held amany or khaus, the right of suing for the resumption lay in the party to whom the collections were payable. When it was in the hands of Government, the Tuhseeldar was to sue for the resumption.[d] The revenue of all lands exceeding Fifty bigahs, was to belong to Government, but was to be paid through the proprietor of the estate from which the alienation was originally made.[e] In the Ceded and Conquered Provinces and in Cuttack, the revenue assessed on *all* resumed lands was declared to belong to Government.

On this subject, the Circular Orders of the Board furnish the following additional rules. In 1838 the Deputy Governor decided that a Hookamee tenure of less than 100 bigahs, situated within the limits of a permanently settled estate, escheated to Government, if the Lakrajdar died without heirs; but at the same time agreed in every instance to waive the claim in favour of the Zemindar.[f] At the request of Government, the Deputy Superintendent of Legal Affairs, summed up the law of the case regarding land under a hundred bigahs, in the following terms: "The Special Deputy Collectors are to decide and to resume on behalf of Government, if found to be invalid, all rent free tenures, whether more or less than 100 bigahs, in extent which are not situated within the limits of a permanently settled estate (due attention being paid to the case provided for at the close of the fourth paragraph) or which being so situated, are held under a Badshahee grant or under an Hookamee grant specifying more than 100 bigahs, although the Lakrajdar may be in possession of less than that quantity. On the other hand, the resumption Officers must abstain from interfering with any rent free tenures situated within the limits of a permanently settled estate, and held under an Hookamee grant, specifying less than 100 bigahs; but if, in any such case, they should have reason to suppose that the Lakrajdar is in possession of a greater quantity of land than is specified in the Sunnud, they are at liberty, should there be strong grounds for believing that the surplus was not included in the permanent settlement, to institute an investigation to try that question, and, if

a Reg. 19, 1793, Sect. 11.

b *Idem*, Sect. 7.

c Reg. 41, 1795, Sect. 6.

d Reg. 41, 1795, Sect. 11.

e Reg. 41, 1795, Sect. 7.

f Cir. Ord. No. 13, Jan. 23, 1838.

proved not to have been so included, to resume the excess; but of course such proceedings should not be held on doubtful cases.[a]

[a] Cir. Ord. No. 60, Aug. 25, 1838.

A particular case of *Kharij Jumma* grants, less than 100 bigahs, was brought under the notice of the Board in 1839. They consist of land separated from the revenue, and sold by the Zemindar, at a very early period; the grantee, having thus paid an equivalent to the grantor. After much discussion, the Board came to the decision (which Government confirmed) that the interference of the Revenue officers in all such Kharij Jumma tenures, of less than 100 bigahs, was repugnant to Regulation 19, Section 6, 1793, and that the lands of all such tenures, which had been resumed, together with the collections, should be restored.[b]

[b] Cir. Ord. No. 27, Oct. 8, 1839.

SECTION XVI.

Null and void grants.

All grants for holding land free of assessment, whether under or above 100 bigahs, made after the 1st December, 1790, or that may be hereafter made, except by the Governor General, are declared null and void, and no length of possession can give them validity with regard either to the property of the soil or its rents, and every person possessing or succeeding to an estate or dependent talook, or holding it in farm from Government, or collecting the rents of Khaus estates, was ordered to dispossess the grantee and resume and assess the land without any legal formality; and the Zemindars and others were declared not liable to any increase of revenue during their engagements on account of these resumptions.[c] The same rules were extended to Benares, in reference to grants made after the Fussily year 1196, and in the Ceded and the Conquered Provinces and Cuttack regarding grants made after 1803. These enactments were confirmed in 1825; and it was ordered that all Revenue Authorities might forthwith resume and assess such lands, except in cases when the revenue belonged to a Zemindar, Talookdar, or Malgoozar, with whom a permanent settlement has been made.[d]

[c] Reg. 19, 1793, Sect. 10.

[d] Reg. 9, 1825, Sect. 8.

SECTION XVII.

Money Pensions in lieu of Lakhraj Lands.

When a Collector suspects the validity of the original rent-free tenure, which has been commuted for a pension of the kind mentioned in Reg. 24, 1803, and Reg. 6, 1817, he may, with the sanction of the Board, investigate the tenure under which such land was held as he may other tenures; and if the Board considers the tenures

invalid, it may resume the pension, subject to the usual appeal, unless the pensioner has enjoyed it for twelve years or more.[a]

[a] Reg. 2, 1819, Sect 29.

SECTION XVIII.

Canoongo Lands.

In 1808, Government directed that Canoongos in the Ceded and Conquered Provinces should receive such salaries as the Governor General in Council might fix for their support; and that these salaries should preclude all farther pecuniary allowances, as nankar and the like, and that the revenue of the lands heretofore assigned for the support of those who might be continued in the office or might be discharged, should be resumable. But the Governor General was at liberty to continue to them the whole or a part of the lands hitherto enjoyed by them free of assessment[b] The same rule was extended in 1816 to Shahabad, Tirhoot, Sarun, Behar, Cuttack and Puttaspore.[c] These rules were modified in 1825. After various resumptions of Canoongo lands had taken place, it appeared to the Governor General improper wholly to deprive them and their representatives of lands they had enjoyed for a long series of years; and it was resolved that where lands had been occupied and managed by them, they should be restored, and a settlement be made with them, at *one half* the annual rental, securing at the same time to the proprietors of the soil such malikana as they may have received prior to the resumption of the tenure.[d] It was therefore enacted that in the case of resumed lands, held by Canoongos by virtue of their office, when the Lakhraj tenure and the right of property were vested in distinct parties, it should be competent to the Governor General to continue the Minhyedars (or Canoongos) and their heirs in the possession and management of them, subject to such rent as the Governor General might fix; and the parties claiming the Zemindaree right should only receive the same land rent or profit which they enjoyed up to the period of resumption, or would have received if it had been confirmed in perpetuity, free of assessment. Persons claiming to be Maliks therefore of these lands, who during the Lakraj tenure had not possession of them, should not disturb the Minhyedars in cases where the Governor General may have sanctioned such possession; and any suit preferred by them to recover possession contrary to these rules, should be dismissed from the Courts with costs. But where the Zemindar had received Malikana, during the existence of the Lakhraj tenure, he should continue to receive it, notwithstanding the resumption.[e] The tenures of the Minhyedars confirmed to them by Government according to the Preamble of this

[b] Reg 4, 1808, Sect. 2, 5, 6.

[c] Reg. 2, 1816, Sect. 2 and 5, and Reg. 5, 1816, Sect. 2 and 5.

[d] Reg. 13, 1825, Sect 1.

[e] *Idem*, Sect. 2.

Regulation, or in conformity with the preceding section, are hereditary and transferrable. If they escheat to Government, the parties possessing a proprietary interest in them, will be admitted to engage for them on a fresh assessment adjusted according to the actual assets.[a]

a Reg. 13, 1825, Sect. 3.

SECTION XIX.

Thanadaree and other Police Lands.

* In the rules for the Decennial Settlement in Bengal, Behar and Orissa, it was declared that the jumma of the Zemindars, independent Talookdars, and other proprietors was exclusive of any allowance made them for keeping up Thannahs or Police establishments, or the produce of lands appropriated to that purpose, and the Governor General, reserved to himself the right of resuming such lands, in consequence of having exonerated the Zemindars from the charge of the Police, and appointed Government officers to superintend it. It was at the same time declared, that the produce of such lands should be appropriated to no other than Police objects, and the Collectors were directed to collect the rent of them separately.[b] It was subsequently ordered that the produce of such land or allowances, when resumed under the above rule, should be carried to the public account, towards the discharging of the police expenditure.[c] In the Regulations relative to the province of Benares, there is but one rule on this subject, and it refers to Chowkeedaree lands simply, which Government possesses the right of resuming whenever it may see fit to exonerate the Zemindars from being responsible for the peace of the district.[d]

b Reg. 1, 1793, Sect. 8, Cl. 4.

c Reg. 6, 1797, Sect 2 Cl. 2.

d Reg. 27, 1795, Sect. 5, Cl. 4.

In the Ceded Provinces, there is the same distinction as in Bengal between the *Chowkeedaree* lands, or those appropriated for village watchmen, and the *Thanadaree* lands. In reference to the former description, the original Proclamation on the 30th September, 1802, vested the landholders with the power of granting small portions of land, free of assessment, for the support of village watchmen. Such grants were declared resumable on the death of the persons to whom they had been made; and they, as well as other lands, held by public officers or private servants, in lieu of wages were to be included in the malguzary lands of the estates to which they pertained, and for which the Zemindars were to be held responsible.[e] In regard to the Police or Thanadaree lands, it was enacted that the Governor

e Reg 25, 1803, Sect. 32.

* It must be borne in mind that in Bengal there are two kinds of Police lands; one, the Thanadaree; the other, the Chowkeedaree, or the lands of village watchmen. The rules quoted refer only to the Thanadaree lands.

General reserved to himself the right of resuming them, if at any time he should think fit to exonerate the Zemindars from the charge of the police. The produce of these lands, it was promised, should be appropriated only to that purpose.[a] In the Conquered Provinces, the rules regarding the two descriptions of lands, the Chowkeedaree and the Thannadaree, are the same as those passed in reference to the Ceded Provinces.[b] In Cuttack there is a difference also made between Police men or Pykes, and Village Watchmen. Regarding the former the law enacted that the rent of lands appropriated to the maintenance of certain sirdar pykes and others for the support of the Police should not be resumed, but that the quit rent paid by such pykes according to the tenor of their grants should continue to be paid.[c]

a Reg. 25, 1803, Sect 35, Cl. 4.

b Reg. 9, 1805, Sect 22, Sect 25, Cl. 4.

c Reg. 12, 1805, Sect 9.

SECTION XX.

Mocurrerees.

At the period of the Decennial Settlement various portions of land were held, sometimes by the Zemindar, sometimes by a lessee, at a mocurreree or fixed rent, said to have been established by competent Revenue authorities. Some of these tenures had been confirmed by the officers of the British Government. They were not reassessed and settled at the period when the Decennial Settlement was made; but the Government at the period of that arrangement, declared the conditions on which these mocurreree tenures should be considered valid, and, the rents not liable to increase. Those rules form the criterion by which the validity of all mocurreree tenures are tried; those which are found to conform to the conditions thus laid down, are confirmed in perpetuity, those which are not, are decreed to be liable to a new and increased assessment.

The enactments of 1793 ordain, that Mocurreree leases to persons not the actual proprietors of the lands included in the lease if granted or confirmed by the Supreme Government, or obtained before the Dewanny, were to be continued in force during the lives of the lessees, subject to an abatement for the sayer resumed or abolished; and on their death, the settlement was to be made with the actual proprietors of the soil according to Regulation 8, 1793.[d] If Mocurreree grants had been made to persons not the actual proprietors of the soil, since the Dewanny, and had not been confirmed by the Supreme Government, the grantees were to be dispossessed, and the settlement made with the actual proprietors. Where the Mocurreedars had been in possession of the tenure for a term exceeding twelve years, they were to receive during their lives the difference

d Reg. 8, 1793, Sect. 16

between the rent at which they held the lands, and the rent agreed on by the actual proprietors, also the neat produce of the sayer.[a] Mocurreree grants to the actual proprietors of the soil, made or confirmed by the Supreme Government, were to be continued in force, subject to the like abatement for the abolished sayer. These rules, and those of Section 16, were declared subject to the revocation or confirmation of the Court of Directors.[b] And the decennial settlement of all separated talooks, and of all lands in Bengal paying revenue immediately to Government, which had been held at a fixed jumma for the twelve years preceding 1793, was to be concluded with the proprietors *at the jumma hitherto paid by them*, subject to a deduction for the sayer, as aforesaid.[c] The same rule was also made applicable to Behar.[d]

In 1815, Government passed an enactment for the Ceded and Conquered Provinces and Bundlekund, which ordained that on the death of any person in those provinces holding a Mocurreree tenure granted by the Native Governments, the Collector should proceed to assess it under the direction of the Board of Commissioners; and the Board was directed to apply to Government for instructions in any case which appeared to call for a deviation from the established rules; the Governor General was at liberty, in cases which appeared to require it, to allow an abatement of the usual jumma.[e] No Court was allowed to take cognizance of such resumptions or of the assessment of the lands consequent thereon; the adjudication of all such claims being entrusted to the revenue authorities, subject to the approval of the Governor General.[f] But the Courts were not debarred from receiving and trying claims to actual property in a Mocurreree, and the rights and privileges annexed to it by the existing laws or usages.[g] The revenue authorities were also at liberty to resume, in the life time of the incumbent, any such tenure proved to be invalid.[h] These Mocurreree grants being moreover considered life tenures only, the Courts were precluded from entertaining a claim from the heir of the possessor of them who had died subsequent to the cession or conquest of the province.[i]

In 1819, it was ordained that the validity of Mocurreree grants should be tried under the same laws, which had been enacted for determining the validity of rent-free tenures. But nothing in that Regulation was to affect the rules in Regulation 8, 1793, relative to the assessment of such grants, when under valid tenures, or the provisions of 1815 (as above), by which such tenures in the West were declared liable to resumption on the death of the grantee.[j]

a Reg. 8, 1793, Sect. 18.
b *Idem*, Sect. 17.
c *Idem*, Sect 76.
d *Idem*, Sect. 84.
e Reg. 1, 1815, Sect, 2.
f *Idem*, Sect. 3.
g *Idem*, Sect. 4.
h *Idem*, Sect. 5.
i *Idem*, Sect. 6.
j Reg. 2, 1819, Sect. 4.

SECTION XXI.

Towfer.

By *Towfer*, is understood land, now in the possession of Zemindars, which formed no part of the estates for which they entered into engagements at the period of the decennial settlement. To these lands Government lays claim. The definition of an estate in Sect. 2, Regulation 48, 1793, and Sect. 2, Regulation 19, of 1795 is, "any land, being Malgoozaree or subject to the payment of public revenue, for the discharge of which a separate engagement has been made with Government." It is farther explained in Section 13, Regulation 8, 1800, to be "any land subject to the payment of revenue for which a separate engagement may have been executed to Government by the proprietor, or by a farmer, or which may have been separately assessed with the public revenue, although no engagement shall have been executed to Government, as in cases where the estate may be held Khaus, by a Sezawul, or other officer on the part of Government, or be managed by a Surburakar for the benefit of a disqualified landholder." But as the authors of the perpetual settlement dispensed with the fixing of boundaries, the main difficulty is to ascertain what lands were, and what were not, included in each estate at the period of that settlement. The following rules were enacted for the investigation of such cases in 1819, by which Government declared that all lands, not included in any pergunnah, mouza, or other division of estates for which a settlement was made at the period of the decennial settlement, and for which a distinct settlement had not since been made, and not being lands held free under a valid title, should be considered liable to assessment, and the revenue assessed on all such lands, be they within or beyond a hundred bigahs, should belong to Government; but this was not to affect the right of the Zemindars to the rent of lands within a hundred bigahs found in the limits of their estates and held on an invalid tenure.[a] And this Regulation was also declared as not intended to affect the rights which had been guaranteed to the Zemindars to the full benefit of all waste lands, within the ascertained boundaries of their estates, at the time of the decennial settlement, which they had brought into cultivation. And if any such lands were unjustly assessed under that Regulation, the Zemindars were allowed to seek redress in the Courts.[b] It was also enacted that all demands made by the revenue authorities to additional revenue for lands included in estates at the period of the settlement on the plea of fraud, or error, or any pretext whatever, save Lakraj and Thanadaree lands, were to be considered illegal and invalid.[c]

[a] Reg. 2, 1819, Sect. 3, Cl. 1.

[b] *Idem*, Sect. 31, Cl 1.

[c] *Idem* Sect. 31, Cl. 2.

No regulation has been passed to fix the principles on which it shall be determined whether any lands were, or were not, at the period of the Decennial Settlement, included within the boundaries of a settled estate: but the letters of Government of the 22d May, 1818, and 30th July, 1823, have in fact had the force of law. The substance of these letters was embodied in Mr. Millett's proposed Resumption Code, and the following is an abstract of them. If the settlement was made for a Zemindaree, or Chuklah, or other division of estates in the gross, without specification of its parts, and without reservation, whatever lands were comprehended in the limits of that Zemindaree, &c. whether the fact be ascertained by defined boundaries, or permanent land marks, or authentic documents, or oral testimony, are not liable to farther assessment. If the settlement was made for a Zemindaree, Chuklah, or other division of estates with a specification of villages, comprized in it, then all lands which, through the evidence mentioned above, cannot be ascertained to have been included in some one or other of the villages so specified, shall be liable to assessment; but this rule is not to apply when the specification of villages was intended only as a detail of the computed assets on which the settlement was founded, and not as an exact definition of the villages composing the estate. If the settlement was made for two or more specific mouzahs, which mouzahs did not at the time of the settlement constitute a talook, or other similar division of estates, the settlement was to be considered as comprizing the Mouzahs only.

Government, moreover, ordained in 1836, that no Towfer or Dearah cases should be decided by the Resumption officers, till the existence of such lands in excess of the limits and boundaries of estates at the permanent settlement had been carefully and accurately ascertained, by local enquiry, evidence on the spot, and an accurate survey and mapping of the land.[a] In the next year, Government desired that the Resumption Officers should defer all investigations respecting Towfer lands, till Lakraj cases had been disposed of; but this was not to apply to lands reclaimed from the Sunderbunds. Whenever, however, a strong primâ facie case of Towfer was discovered, the Sudder Board might grant permission to the Resumption officer to institute a suit to investigate its liability to assessment.[b]

[a] Cir Orders April 25, 1836, No 22.

[b] Cir Ord. No. 33, May 16 1837.

SECTION XXII.

Alluvial land.

The principles laid down with regard to the liability of Towfer lands to assessment in Reg. 2, 1819, Sect. 3, Cl. 1, were also to be

held applicable to all lands gained by alluvion and dereliction since the decennial settlement.[a] The rules by which that liability was to be determined were defined in 1825, in the following manner: Land gained by gradual accession, was to be considered an increment to the tenure of the person to whose estate it was annexed, whether it was held by a superior land-holder or under-tenant. The right of property or interest in this increment of land, was to be to the same extent as that possessed in the land to which it was added, but the holder was not exempt from assessment under Reg. 2, 1819, or any other Regulation. If annexed to a subordinate tenure, the under-tenant, whether a Khoodkust ryut, or any other description of under tenant, liable by his engagement or by usage to an increase of rent for land gained by alluvion, was not to be considered exempt from payment for this increase of land.[b] But this rule was not to hold when a river broke through and intersected an estate, or by the violence of its stream separated a piece of land from one estate and joined it to another, without destroying its identity or preventing its recognition. In such cases it remained the property of its original owner.[c] When a Chur was thrown up in a large and navigable river, or in the sea, if the channel between the chur and the main land was not fordable, it was to be at the disposal of Government. If the channel was fordable at any season of the year, the land was to be considered an accession to the estate most contiguous to it, subject to the provisions of the first Clause of this section.[d] In small and shallow rivers, of which the julkur, or right of fishery, had been recognized as the property of individuals, if a chur was thrown up, it was to belong to the proprietor of the bed of the river, subject to assessment under the first clause of this section.[e] In all other cases of claims and disputes for alluvial land, not provided for by this regulation, the Courts were to be guided by established local usage; and if none was applicable, then by the general principles of equity and justice.[f] In 1830, in a case of Chur land brought under the notice of the Board, the Collector was directed to enquire whether any land had been carried away from that spot by the river since the Decennial settlement, in which case it might be considered as the restoration of old, rather than the formation of new, land, and as such, the right of the proprietors.[g] These rules were farther explained by the Board in 1833, and it was ordained, that all land of alluvial formation belonged to the proprietor of the estate to which it had been annexed, unless it was an island separated from the main land, by a channel not fordable *at any season of the year*. The right of the party as proprietor was explained to be exactly *co-equal*, as regarded the newly formed land, with that by which he held the land to which it had been attached.[h]

[a] Reg 2 1819, Sect 3, Cl. 2.

[b] Reg 11, 1825, Sect 4, Cl 1.

[c] Idem Sect 4, Cl 2

[d] Idem, Sect 4, Cl. 3

[e] Idem, Sect 4, Cl 4.

[f] Idem, Sect 4, Cl 5.

[g] Cir. Ord. No 76 Nov. 12, 1830

[h] Cir. O.d. No 12, April 30, 1833

SECTION XXIII.

Puteetabady and Jungleboory Talooks.

The principle by which Towfer lands were declared liable to assessment was also rendered applicable to all lands, which though included at the permanent settlement, within talooks held by individuals under special pottahs from the Collector, such as the Puteetabady and Jungleboory talooks of the 24-Pergunnahs and Jessore, were not permanently assessed; but if the lands were still possessed by the original holder or his representative, the conditions of the pottah were to be strictly maintained.[a]

[a] Reg. 2, 1819, Sect. 3, Cl. 3.



SECTION XXIV.

Sunderbunds.

The uninhabited tract of land called the Sunderbunds, was in 1828 declared to have been and to be the property of the state. The Governor General, therefore, was competent to grant leases, and to take measures for clearing it. All parties having such leases were to hold the lands without question, and the public officers were to aid them. If a landholder, possessing cultivated land in the vicinity of land thus leased, sued in a Court or before a Special Commissioner to contest the validity of the title of the lessee, then if the land was proved to have been or was not denied to have been, when granted, within the limits of the jungle, the suit was to be dismissed. But if any landholder claimed to possess a valuable interest in any part of the Sunderbunds, by virtue of an authority to collect money from those gathering wax or cutting wood, and this privilege was recognized as part of the assets on which the assessment of his Zemindaree was adjusted, and the collection had not since been stopped and compensation made, Government was to make due compensation for any diminution in the value of this interest by the arrangements for clearing the Sunderbunds; but this right was to be established under the Rules of Reg. 2, of 1819.[b] The boundary of the Sunderbunds was to be laid down by an accurate survey, and Zemindars might obtain a copy of the map, and of the Commissioner's proceedings. Any party aggrieved by the Commissioner's line of demarcation, might petition the Special Commissioner for further investigation. But this plea of objection must state that a specific quantity of land cleared, and under cultivation, and in the possession of the petitioner, had been thus placed within the limits of the Sunderbunds. Every

[b] Reg. 3. 1828, Sect. 13, Cl. 1.

such claim was to be decided according to Reg. 2, of 1819, as modified by Reg. 3, of 1828.[a]

a Reg. 3, 1828, Sect. 13, Cl. 2.

SECTION XXV.

Of Land in the possession of no one.

Whenever a Collector was of opinion that any tract of land belonged to Government, and was in the possession of no one, he might cause a proclamation to be made in different places, requiring all claimants to appear before him in a reasonable time, and investigate their claims according to Regulation 2, of 1819. If he decided that none of the claimants had possession, the lands were to be at the disposal of Government, till adjudged private by a decree of Court. The suits were to be instituted, within six weeks after the Board had affirmed the Collector's decision, and no such suit was to be admitted unless the party had appeared before the Collector or could shew sufficient reason for non-appearance.[b]

b Reg. 9, 1825, Sect. 5, Cl. 2.

SECTION XXVI.

Invalid Jaygeer Establishment.

The rules established by Government for the grant of lands to Invalid native soldiers and officers, are given in this Section; but as, from the absence of any great modification either by subsequent Regulations, or by Circular Orders, they are easily understood, it has not been deemed advisable to lengthen this abstract, by recapitulating them.

SECTION XXVII.

Limitation of time for the cognizance of rent free suits.

It was ordained in Regulation 2, 1805, that the limitation of twelve years for the commencement of Civil Suits, should not be applicable to any claim for the recovery of the public revenue instituted with the sanction of the Governor General.[c] But all claims on the part of Government for the assessment of lands held exempt from the public revenue, or for any other public right, was declared cognizable, if duly preferred, within sixty years from the origin of the cause of action, provided the cause of action should not have originated within the provinces of Bengal, Behar, and Orissa, before the 12th August, A. C. 1765; or within the province of Benares before the

c Reg. 2, 1805, Sect. 2, Cl. 1.

1st July, A. C. 1775, or within the provinces ceded by the Nawaub Vizier before the 10th November, A. C. 1801; being the periods of the Company's accession to the civil Government of the above provinces respectively.[a]

[a] Reg. 2, 1805, Sect 2, Cl. 2.

CHAPTER II.

PROCESS OF INVESTIGATION AND RESUMPTION.

SECTION 1.

Appointment of Collectors to commence investigations.

The rules which had been laid down in 1793, for the trial and decision of Resumption cases, having been found totally inadequate, the whole method of procedure was changed in 1819. In the preamble to that Regulation,[a] the principles on which the resumption of lands was grounded, were recapitulated; and the following rules were enacted for carrying those principles into practice.

Whenever a Collector had reason to believe that there were lands lying within his jurisdiction, liable to assessment, either through being held under an invalid tenure, or at an inadequate jumma, or on the principle described in Section 3, of that Regulation, he was to report the circumstances to the Board, who, if they considered there were grounds for an enquiry, would direct him to investigate the case.[b] This was modified in 1825, when it was ordered that a Collector, engaged in making Settlements, according to Regulation 7, 1822, was empowered, without consulting the Board, to require, by a public notification all persons holding such tenures, to appear before him, and to produce the sunnuds or other writings by which they claimed to hold the lands rent-free, or at a fixed jumma.[c] The Collector was empowered either to complete the investigation, or limit his proceedings to certain points. When the investigation was postponed, due notice was to be given to the parties previously to resuming the enquiry. On the failure of the party to attend, the Collector was at liberty to resume and assess the lands.[d] By the same Regulation, the Governor General was empowered to vest any Collector making a local enquiry with the same power to investigate claims to hold lands rent-free, within the limits of the Muhal to which his control extended. And the Governor General was generally at liberty to depute, from time to time, Collectors or other officers, to ascertain, record, and investigate such claims.[e] The proceedings of all lands held free of assessment within all the villages or muhals of which the settlement was made, were to be fully recorded in the proceedings of the Collector making the settlement.[f] By the

a Reg. 2, 1819. *Preamble.*

b Reg. 2, 1819, Sect 5, Cl. 1.

c Reg. 9, 1825, Sect 5, Cl. 2.

d *Idem*, Sect. 5, Cl. 6.

e *Idem*, Sect. 6.

f *Idem*, Sect. 7.

law of 1828, the Collector was[c] generally empowered to make all such enquiries regarding lands which he believed to be held free of assessment, or at an inadequate jumma, under an invalid tenure, without applying for the sanction of the Board, in any district in which the jurisdiction of a Special Commissioner had been established.[a]

a Reg. 3, 1828, Sect. 4, Cl. 1.

SECTION II.

Appointment of Special Deputy Collectors to investigate Resumption cases.

In 1837, Government remodelled the system which had been in operation, for the investigation and decision of all questions regarding tenures held rent-free, or at an inadequate jumma, and appointed SPECIAL DEPUTY COLLECTORS to relieve the Collectors from all duties connected with Resumption. The Special Deputy Collectors were to exercise their functions independently of the Collectors, and, on their arrival in the district, the authority of the Collectors over such cases was to cease; and they were directed to transfer all suits, then existing, and all registers and records, to the Special Deputy Collectors. Arrangements were at the same time made for transferring part of the Collector's native establishment to them; but the Special Deputy Collectors were still to be left unshackled in the nomination of their subordinate officers. Their Sheristadars were to be remunerated with liberal salaries. All the enactments which had been passed for the Collectors, in regard of the resumptions, were now made applicable to the Special Deputy Collectors. Several districts were allotted to each Special Deputy Collector. They were not required to transfer their Cutcheries to the particular district in which the tenures under enquiry might be situated, but the division of their time between the different districts was left to their discretion. When not moving about, however, their Cutcheries were to be established in the most central district, for the convenience of the community; and the public was to be kept continually informed of their movements.[b] Adverting to the lumping manner in which the Permanent Settlement was formed, and the want of ascertained land marks, the Special Deputy Collector was placed on his guard against the frauds which were likely to be attempted, and was required to ascertain the existence and extent of lands claimed as rent free, before investigating the validity of the tenure. He was also desired to resort to actual measurement where it could be adopted without infringing the rights and privileges conferred by the Permanent Settlement. It was also directed that some Native Deputy Collectors, and a suitable mea-

b Cir. Orders, No. 1, Jan. 2, 1837.

suring establishment should be employed under the Special Deputy Collector.[a]

By a subsequent order, the Special Deputy Collectors were ordered to dispose of the cases of each district in succession, and invariably to hold their Cutcheries in the districts in which the cases lay.[b]

In reference to the question of *measurement*, it was explained, that it was not intended to prohibit the measurement of lands claimed to be held free or of the estates on which they abutted, when necessary, and that this measure was not at variance with the principles of the Permanent Settlement. The disinclination of the Zemindar was not to be regarded as a matter of any consideration. On the contrary it was declared to be the duty of every such Zemindar to assist Government in asserting its just claims. The Special Deputy Collector was also required to defer all Towfeer investigations till the Lakheraj cases had been disposed of.[c] It was also ruled subsequently that the Special Deputy Collector was to undertake the management of *all* cases of resumption, including those which had been decided by the Collector, before he assumed office. The Special Commissioner was therefore directed to make all references to the Special Deputy Collector;[d] and a sum of 50 Rupees a month was sanctioned for Cutcherry hire.[e]

The Special Deputy Collectors were directed to proceed according to the Rules laid down for the Collectors, in Reg. 2, 1819, Reg. 9, 1825, Reg. 3, 1828, and in subsequent orders. These rules are given below. Wherever therefore the word *Collector*, occurs in them, the words *Special Deputy Collector* must be read in its stead.

[a] Cir. Ord. No. 1, Jan. 2, 1837.

[b] Cir. Ord. No. 75, Nov. 20, 1833.

[c] *Idem*, No. 71, Aug. 22, 1837.

[d] *Idem* No. 40, May 30, 1837.

[e] *Idem*, No. 22, April 18, 1837.

SECTION III.

Preliminary Proceedings.

The Collector was directed to summon the party by *a notice*, stating the public demand, and requiring him to appear in person, or by vakeel, in a month, and produce the sunnuds or other writings connected with the tenure.[f] If the party had an accredited agent at the Sudder station, with general powers to act, the notice was to be tendered to him, to be communicated to his principal.[g] If the party had no such agent, or the agent refused to receive the notice, it was to be served on the party, through the Nazir, by a single peon, who was to demand acknowledgment from him or from his principal agent. If he resided in another Collectorate, it was to be served through the Collector of the district in which he resided. If he was no where to be found, it was to be served on the agent in charge of the lands.[h] If the party or his agent refused to acknowledge the receipt of the no-

[f] Reg. 2, 1819, Sect. 5, Cl. 2.

[g] *Idem*, Sect. 5, Cl. 3.

[h] *Idem*, Sect. 5, Cl. 4.

a Reg. 2, 1819, Sect. 5, Cl 5.

b Cir. Ord. No. 68, Oct. 15, 1830.

c Reg. 2, 1819, Sect. 5, Cl. 6.

d Reg. 9, 1825, Sect. 5, Cl. 2.

e *Idem*, Sect. 5, Cl. 4.

f Cir. Ord. No. 71, Oct. 23, 1838.

tice, the tender of it was to be proved by two witnesses, which was to be considered sufficient.[a] No tulubana was to be charged on the party for the peon serving the notice.[b] The party was to be warned, that if he neglected to produce any writings within the specified time, they would not be subsequently received, without sufficient reason assigned for withholding them.[c] These rules were partially modified in 1825, and it was ordered that the Collector making settlements might, by a *general* notification require all persons holding lands free of assessment, or at a fixed rent, to attend him within a month, either in person or by agent, from day to day, with their sunnuds, and other writings connected with their tenures, and any evidence they might wish to offer of their claims.[d] When the Collector engaged in the settlement, was prepared to hear the claims of persons thus holding lands, he was on the day previous to that on which he intended to hold proceedings, to notify such intention by an Istehar.[e] But in 1838, the Board ruled that the issuing of the notice, ordered as above by Reg. 2, 1819, Sect. 5, should not be dispensed with.[f]

g Reg. 2, 1819, Sect. 6, Cl. 1.

h *Idem*, Sect. 6, Cl 2.

i Reg. 9, 1825, Sect. 5, Cl. 5.

j *Idem*, Sect. 5. Cl 6.

If the party to whom the notice was issued, as ordered in Regulation 2, 1819, absconded or concealed himself, so that the notice could not be served, a proclamation was to be affixed, with a notice, in a conspicuous part of his cutchery, stating, that if he did not appear by a certain day, the case would be proceeded in ex-parte. The proclamation was also to be affixed at the door of his usual residence, and at a conspicuous place of the village within or near the lands.[g] If the party did not appear within the time specified, or if appearing, he refused to make answer, the Collector was to proceed ex-parte, as though he had appeared and answered.[h] These rules were partially modified in 1825, when it was ordered that if any party failed to attend after the general notice, the Collector was at liberty to proceed ex-parte, to investigate the title, and if defective, to resume the lands, with the Board's sanction. No person thus defaulting, was to be allowed to stay resumption and assessment by Regulation 2, 1819, Section 22. But the rule of Reg. 2, 1819, Section 13, Cl. 2, was to be applicable to such persons as well as to those who appeared when summoned.[i] The Collector making such settlements, was at liberty either to complete the investigation, or to limit himself to ascertaining the land actually held under this tenure and recording the title deeds produced. On postponing the investigation, he was to notify to the party when it would be resumed; at least, before resuming it, he was to give a month's notice, and on the party's failing to attend, he was to proceed ex-parte, and, if the Board allowed him, to resume the lands.[j]

With regard to Towfeer lands the Collector was to institute a par-

ticular enquiry into the circumstances and condition of the land, at the time of the decennial settlement; and, in cases of alluvion, at the time of its formation;[a] and, with the sanction of the Board, to cause a survey and measurement of these lands and of the estates to which they were said to belong.[b]

[a] Reg. 2, 1819, Sect. 7.
[b] *Idem*, Sect. 8.

Regarding the mode in which the Collector was to proceed in order to obtain the necessary *deeds, documents and accounts*, the following enactments were passed. The Collector was to summon the putwary, gomastah, or other person in charge of the accounts, require him to produce all such accounts, and examine him on oath to the truth of them.[c] He was at liberty, with the sanction of the Board, to summon the proprietor or farmer, to attend personally or by vakeel, and produce all his accounts.[d] The proprietor, farmer, patwary or gomastah, was to be summoned with a written notice, stating the purpose of his attendance and the papers he was to bring with him.[e] Such notice was to be served in conformity with Regulation 14, 1793, Section 3; only that the parties were not to pay the peon.[f] If any patwary, gomasta, or other person in charge of the accounts, being thus summoned, neglected to produce the original accounts, or to give evidence, or gave false evidence on oath, or falsified, altered, or fabricated accounts, he was to be dealt with in the way prescribed in Reg. 12, 1817, Sect. 23, 26, 27.[g]

[c] *Idem*, Sect. 9.
[d] *Idem*, Sect. 10.
[e] *Idem*, Sect. 11, Cl. 1.
[f] *Idem*, Sect. 11, Cl. 2.
[g] *Idem*, Sect. 12.

If the holder of any lands the subject of enquiry, refused to furnish the accounts, the Board might direct the lands to be immediately attached, and *the rents to be collected on account of Government*, in the same manner as if the lands were public property. In such cases the Collector was to make full enquiry into the title of the holder, and report to the Board, who were to decide whether the lands were assessable.[h] If the holder of the land refused to attend in person or by vakeel, or to furnish the documents, the Board might subject him to a daily fine, which should be levied when approved by Government.[i] On the construction of this rule, a long correspondence passed in 1837 between Government and the Board. The Board contended, that the words "collected on account of government, as if the lands were public property" meant simply that they should be collected in the same manner as the rents of Khaus estates were collected, and not that the rents thus collected should belong to Government, even if the land was eventually adjudged to pay rent; that for withholding accounts, a punishment had been ordained in the shape of a fine; and that to add to this the deprivation of the rents while the land was under attachment, would be to lay on a double penalty for the same offence. The Government however still adhered to its opinion that these collections were the property of the state, but ordered the matter to be referred to the Sudder Dewanny Adawlut, who ruled that

[h] *Idem*, Sect. 13, Cl. 1.
[i] *Idem*, Sect. 13, Cl. 3.

when an estate was thus attached for non-production of papers, the mesne profits should belong to the parties *in whose favour the lands* were eventually adjudged.[a] If the holder instituted a suit in Court to contest the decision of the revenue authorities and produced other documents besides those delivered in, they were not to be received in evidence, or to have any weight, unless he showed sufficient cause for not having produced them before.[b] If any Zemindar resisted or caused to be resisted the attachment or measurement of his lands, or any process to compel any patwary to produce accounts, the Board might fine him; but if the fine exceeded 500 Rupees, the Board were to submit it for the sanction of the Governor General.[c] The Collector was to resume no lands when the parties confessed them liable to assessment, without the sanction of the Board; on such confession, the Board might order them to be assessed, unless they were held by village or Zemindaree servants, in lieu of wages. When the resumption of lands appeared likely to occasion serious distress to the holders, a report was to be made to Government.[d] No stamp paper was to be used in resumption cases originating with a Collector; but witnesses might be awarded their reasonable charges, which, as well as costs, were to be levied, like arrears of rent.[e]

a Cir. Ord. No. 48, June 6, 1837.

b Reg. 2, 1819, Sect. 13, Cl. 2.

c *Idem*, Sect. 14.

d Reg. 9, 1825, Sect. 5, Cl. 8.

e *Idem*, Sect. 5, Cl. 10.

SECTION IV.

Examination of the Validity of Documents.

If it appeared that the grant of any Hookamee tenure was forged, or the name of the grantee erased, or the denomination or date had been altered, the grant was to be considered null and void;[f] and any person who might have been concerned in the fraud was to be criminally prosecuted.[g] The same rule was passed regarding Badshahee tenures;[h] and extended to Benares.[i]

When any written document was produced purporting to be a firman of the King of Delhi, or a grant of any vizier, nabob or raja, the authorities were to test its validity by their records, and by the examination of living witnesses, and not receive it in evidence merely on the credit of the seal, or other attestations impressed on it.[j] But no such document was to be received or faith given to it, unless it could be proved to have been duly registered, or due cause could be shewn for non-registry.[k]

f Reg. 19, 1793, Sect. 17.

g *Idem*, Sect. 18.

h Reg. 37, 1793, Sect. 12, 13.

i Reg 41, 1795, Sect. 17, 18, and Reg. 42, 1795, Sect. 12, 13.

[illegible] Sect. 28, Cl. 1.

k *Idem*, Sect. 28, Cl. 2.

SECTION V.

Investigation.

When the party appeared in compliance with the Collector's requisition, and delivered up his documents, the Collector was required to give him a receipt for them; and after examining them to give him a statement of the grounds on which he deemed the grant resumable, requiring him to deliver an answer in seven days.[a] The Collector was duly to number, mark, date, and sign the deeds thus produced, and insert in his proceedings their title and number; and, before proceeding to judgment, was to warn the party that no other accounts or written evidence would be afterwards received by any Court, unless he could assign good reason for not producing them before.[b] On receiving the reply of the party, the Collector was to summon witnesses both on the part of Government and of the holder of the lands, and judicially take their depositions before the party or his vakeel.[c] The Collector was carefully to examine the deeds and to allow the party to inspect all the documents on which he relied in proof of the liability of the lands to assessment.[d] The Collector might summon witnesses and administer an oath or solemn declaration to them according to the Regulations, sending refractory witnesses for punishment to the Judge.[e] Any persons giving a false deposition on oath, or causing another to do it, was to be liable to punishment according to the Regulations.[f] Persons resisting the process of the Collector were, in addition to the penalty prescribed in Section 14, liable to the penalties prescribed in Reg. 14, 1793.[g] In cases investigated under Regulation 9, 1825, or under Reg. 2, 1819, the provisions of C. 1, Sect. 23, Sect. 25, and Sect. 28, Reg. 7, 1822, were applicable;[h] viz.

[The Cutcherry of the Collector when investigating Lakheraj tenure, as it regarded witnesses, resistance of process, contempt, &c. &c. &c. was to be held a Court of Civil Judicature, and his decisions, judicial awards. Parties in suits tried by the Collectors, might employ what vakeels they liked and remunerate them as they wished, but the party cast was not to be liable to higher costs than the Collector thought reasonable. Collectors might try suits in any part of the district, but only in open Cutcherry, and in presence of the parties or their agents.]

a Reg. 2, 1819, Sect. 15.

b Idem, Sect. 16.

c Idem, Sect. 17.

d Idem, Sect. 18.

e Idem, Sect 19, Cl. 1.

f Idem, Sect. 19, Cl. 2.

g Idem, Sect 19, Cl. 3.

h Reg. 9, 1825, Sect. 5, Cl. 9.

SECTION VI.

Proceedings of the Collector (Special Deputy Collector) after investigation, in Districts not within the Jurisdiction of a Special Commissioner.

The proceedings of the Collector after investigating the claim, are of one kind in the districts to which the jurisdiction of the Special Commissioner does not extend, and of a different kind in districts to which his jurisdiction does extend. With regard to the former, it was enacted that the Collector, having closed his investigation, should record his opinion, and the grounds of it in a Persian Roobukaree, and forward his proceedings to the Board, giving the party interested a copy of his Roobukaree.[a] The Board, after calling, if necessary, for farther evidence, was to fix a day, not less than six weeks after the Roobukaree had been delivered to the party; and after hearing what he might have to urge, to pass judgment, and record it in a Persian Roobukaree to be delivered to the party.[b] The final Roobukaree of the Board and Collector was to contain the subject matter of the case, the grounds of decision; the names of the witnesses heard, and the titles of the documents exhibited.[c] The decision of the Board, if pronounced against assessment, was to be final, except when fraud and collusion were proved in a Court of Justice.[d] If the Board decided in favour of assessment, the Collector was to inform the party of the decision, and proceed to assess the land, on the principles of the Regulations.[e] If the party, a fortnight after receiving the decision of the Board, offered the Collector security for the rent which might be assessed, with interest, and engaged to institute a suit to contest that decision, the Collector might leave him in possession of the lands, he producing his accounts of collections to regulate the security.[f] If the party gave security for a part of the rent, and the lands were held Khaus, or let in farm, a portion of the rent corresponding with the amount of his security, was to be paid him.[g] If the Collector refused to take security, the appellate Court might order him to do so, if satisfied that it was sufficient; but the Collector and the Board were to fix the amount of it.[h] The security was to be equal to one year's rent with interest; but if the suit was prolonged beyond a year, the Board might demand additional security.[i] In the case of Mocurrerees, the appealing party was to pay the usual jumma, and to give security for the remainder.[j] Parties bringing a suit to contest the decision of the Resumption Officers, were to write their petition of plaint on a Rupee Stamp.[k] If the party gave no security, or neglected to sue, the Collector was to proceed to the final assessment.[l] Those whose lands were assessed, either through failing to give se-

a Reg. 2, 1819, Sect. 20.
b Idem, Sect. 21. Cl. 1.
c Idem, Sect. 21, Cl. 2.
d Idem, Sect. 21, Cl. 3.
e Idem, Sect. 21, Cl. 4.
f Idem, Sect. 22, Cl. 1.
g Idem, Sect. 22, Cl. 2.
h Idem, Sect. 22, Cl. 3.
i Idem, Sect. 22, Cl. 4.
j Idem, Sect. 22, Cl. 5.
k Idem, Sect. 27.
l Idem, Sect. 23.

curity or to sue, might still sue within the twelve months; failing which, the Board's decision was to be final and conclusive. But, when good reason, such as minority or absence, could be given for not suing, no limitation of time was to prevail other than the general limitation in the Regulations.[a] The same law was extended to cases connected with Reg. 8, 1811; Reg. 5, 1813; and Reg. 11 and 23, 1817.[b]

a Reg. 2, 1819, Sect. 24, Cl. 1.

b Idem, Sect. 24, Cl. 2.

The enactment of 1828 made some important modifications and alterations in these rules, by ordaining, that in all cases, as above, in which the Board had decided in favour of assessment, its judgment should be carried into immediate execution, whether the party sued to contest it or not; and that he should not retain possession of the land, except on entering into engagements to pay the assessment fixed on it. If any party against whom the Board had decided, refused to pay the assessment, he was to be dispossessed. If by a final decree the tenure was exempted from rent, the net collections made by Government were to be refunded with six per cent. interest.[c] All suits instituted in any Court to contest the decision of the Board, according to Reg. 2, 1819, Sect. 22 and 24, and Reg. 9 of 1825, Sect. 5, (except where the jurisdiction of the Courts was barred by that Regulation, viz. 3 of 1828) were to be heard and determined as regular *appeals;* no farther pleadings were to be allowed than the objection of the appellant, and the Board's reply. The Courts were to receive no new oral or documentary evidence unless it had been tendered to the Board and refused by them.[d] But this was not to bar the right of the Board to a farther appeal to the Provincial Court and the Sudder, in cases mentioned in Sect. 6, Reg. 14, 1825, nor the admission by those Courts of a special appeal by the party cast under Sect. 26, Reg. 2, 1819.[e] Appeals against the decision of the Board were to be kept on a separate file and the Courts were to appropriate a day in the week to hear them, and strictly to enforce Sect. 12, Reg. 26, 1814.[f] At a subsequent period the Board requested the Revenue Commissioner to inform the Resumption officers that their time would better be employed in hearing and deciding cases that had been admitted, than in the admission of new ones[g]

c Reg. 3, 1828, Sect. 10, Cl. 2.

d Idem, Sect. 10, Cl. 3.

e Idem, Sect. 10, Cl. 4.

f Idem, Sect. 10, Cl. 5.

g Cir. Ord. No. 45, Sept. 6, 1831.

In 1829, all the powers vested in the Board by Reg. 2, of 1819, and 9, of 1825, relative to the investigation and decision of claims to hold land, on a free tenure, or at a fixed jumma, were transferred to the Revenue or Local Commissioners (with the exceptions provided for in Reg. 3, of 1828,) and the Collectors were directed to transmit to them the reports and proceedings, formerly sent to the Board.[h] The Revenue Commissioners were at liberty to sanction the resumption of lands by a Collector unless the Board admitted an appeal, and the parties whose lands were assessed were at liberty to institute a suit in

h Rules of Practice. No. 7, Rule 36.

a Rules of Practice, No. 7, Rule 37.

the Courts to try the decision within the period mentioned in Reg. 2, 1819, Sect. 22, Cl. 1.[a]

SECTION VII.

Proceedings of the Collectors, after the investigation of claims, in districts within the jurisdiction of a Special Commissioner.

By the enactment 3, of 1828, the mode of proceeding prescribed in 1819 and 1825, was materially altered. SPECIAL COMMISSIONERS were appointed instead of the Courts, to hear appeals from the decisions of the Collector, and the subsequent year the change was completed by the appointment of Revenue Commissioners, to whom the same reference was to be made which had been previously made to the Board. We have given in the last Section, the old mode of procedure, which was to continue in force in districts, not under a Special Commissioner; but as the jurisdiction of the Special Commissioner has now been extended to almost every district in India, the following Rules may be considered as applicable in almost every case of Resumption.

Whenever the jurisdiction of a Special Commissioner had been established in any district, the Collector might institute enquiries regarding land held on a free tenure, or at an inadequate jumma, without the sanction of the Board of Revenue, but in all other respects he was to proceed according to Reg. 2, 1819, and Reg. 9, 1825. Having closed his proceedings, he was to record his opinion in a Roobukaree, as directed in Sect. 20, Reg. 2, 1819. His decision was to have *all the force and effect of a decree*, and a copy of it was to be delivered to the party on plain paper.[b] If his decree declared the lands liable to assessment, or to be the property of Government, a copy of it need not be sent either to the Board or the Special Commissioner, but the party cast might appeal to the Special Commissioner, in two months after receiving the decree, or later, with his permission. The appeal might be presented to the Special Commissioner, or delivered to the Collector.[c] By a Circular Order of 1840, the Board of Revenue decided that the Resumption officers in directing with whom the settlement was to be made had exceeded their powers and that they were competent only to decide upon the liability of land to assessment or not.[d] The Collector, whether the case was appealed or not, was at liberty to carry his decision into execution, attaching and assessing the land, and reporting his proceedings to the Board. The Special Commissioner, in cases appealed to him, might stay the execution of the decree, and suspend or withdraw the attachment on adequate security being given.[e] If the Collector decided against assessment,

b Reg. 3, 1828, Sect 4, Cl. 1.

c *Idem*, Sect. 4, Cl. 2.

d C. O No. 13, March 18, 1840.

e Reg. 3, 1828, Sect. 4, Cl. 3.

he was to report the case to the Board, who, if they considered the reasons of the Collector for non-assessment, inadequate, might, within twelve-months, appeal the case to the Special Commissioner, who was to issue a notice, requiring the parties in whose favour the Collector had decided, to attend and reply to the appeal. On their non-attendance, the case was to be decided ex-parte.[a] By the Rules of Practice, it was provided specifically that the Collector, if the lands lay within the jurisdiction of a Special Commissioner should, on deciding in favour of assessment, report his decision to the Revenue Commissioner.[b] If he decided against assessment, he was to report his proceedings to the Revenue Commissioner, who, if he disapproved of the decision, was at liberty to refer it within a year to the Court of the Special Commissioner for revision and final orders.[c] This rule was anew enforced by the Board in 1837.[d] When it happened that the Revenue Commissioner and the Special Commissioner were the same person, the Collector, on deciding against assessment, was to report his proceedings to the Board of Revenue, who, if they disapproved of the decision, might appeal the case to the Court of the Special Commissioner.[e] The Revenue Commissioner was not at liberty to order a Collector to *revise* his decision. He might call on the Collector for all the information necessary to enable him to decide, on a review of the grounds of the decision, whether it should be appealed or not. But the appeal must be made within the twelvemonth, and the Revenue Commissioner was especially required to make the appeal, if necessary, within the year. With the exception of the power of being able to order a review of judgment, the Special Deputy Collector, was as much subject to the Revenue Commissioner as any other Collectors.[f] This prohibition of the Revenue Commissioner to order a Special Deputy Collector to retry a case, was anew repeated in 1840.[g] In June 1838, the Board ordered that in all cases in which the Revenue Commissioner pursued this course, he should send the Board a statement of the grounds of his dissatisfaction with the Collector's decision, that the necessary pleadings might be prepared and filed in the Commissioner's Court.[h] But this Rule was modified in 1839, and it was ordained that the Revenue Commissioner, if he disapproved the grounds of the Collector's decision, should report the case to the Sudder Board, who would determine whether an appeal should be preferred to the Special Commissioner.[i]

If the proprietor of the Estate in which a rent-free tenure existed, was a minor, the investigation of it was not to be delayed, but the suit was to be defended by the *Court of Wards* through their Deputy Superintendent of Legal affairs. The Special Deputy Collector in this case was to send a copy of his decision to the Collector.[j]

If the Revenue Commissioner thought that the resumption of any

a Reg. 3, 1828, Sect. 4, Cl. 4.

b Rules of Practice, Rule 38.

c *Idem*, Rule 39.

d Cir. Ord. No. 43, June 1, 1837.

e *Idem*, No. 66, Oct. 1, 1830.

f *Idem*, No. 52, June 10, 1837.

g *Idem*, No. 10, Feb. 29, 1840.

h *Idem*, No. 43, June 16, 1838.

i *Idem*, No. 1, Jan. 8, 1839.

j *Idem*, No. 1, April 17. 1839

a Rules of Practice, Rule 40.

rent free tenures would occasion distress, he was to make a report to the Board, who would submit the case to Government.[a]

b Cir. Ord. No. 67, Aug. 2, 1837.

c Idem, No. 21, March 28, 1837.

d Idem, No. 61, Sept. 4, 1838.

e Idem, No. 31, May 9, 1837.

f Idem, No. 56, June 20, 1837.

As the Special Deputy Collectors are in no wise subject to the direction or control of the Board in the exercise of their judicial functions, the Board declined to lay down an authoritative digest and construction of the Resumption laws, but at the request of Government agreed to furnish instruction to them, and to the Revenue Commissioners on all matters of practice or procedure, and to give the Special Deputy Collectors, their opinion in all cases of legal difficulty, it being however optional with them to receive the advice or not.[b] No resumption cases were to be decided when the Civil Courts were shut, but preliminary enquiries might be carried on, either at the Sudder Station or in the Mofussil.[c] This was subsequently explained by the Board; and it was ordered that when the parties were *voluntarily* in attendance, while the Civil Courts were closed, the Resumption officers might try and decide the cases.[d] The Revenue Commissioners were at liberty to order the Collectors to make advances to the Special Deputy Collectors of such sums as were required for temporary disbursements, but not to sanction any new charges, temporary or permanent. New miscellaneous charges beyond 500 Rupees were to be submitted to the Board in the first instances.[e] The Special Deputy Collectors were especially forbidden to levy *Tulubana*.[f]

SECTION VIII.

Measurement and disputed boundaries.

g Reg. 9, 1825, Sect. 5, Cl. 3.

On the subject of *measurement*, it was ordained in 1825, that the Collector engaged in the settlement of a Mehal was at liberty to measure all lands, Malgoozaree, or Lakheraj, belonging to or adjoining the village, in which the Mehal or part of it was situated, without reference to the Board.[g] On the appointment of Special Deputy Collectors, the Board adverting to the lumping manner in which the permanent settlement was formed, and the want of ascertained and recorded land marks, stated that there would be great difficulty in identifying lands. The Resuming Officers were therefore to be on their guard against frauds, and to ascertain the existence and extent of lands claimed as free, before they investigated the claim. When the parties in possession did not point out the lands and define the boundaries, recourse was to be had to measurement, where it could be done without infringing the rights and privileges of the Permanent settlement. To conduct preliminary enquiries, it was recommended to employ one or more uncovenanted Deputy Collectors, with a mea-

suring establishment.[a] On the subject of measurement it was subsequently explained that the measurement of lands claimed as free, or of the estate on which they abut, when necessary to determine the Lakheraj claim, was not intended to be prohibited; as such a proceeding was not considered repugnant to the faith of the Permanent settlement.[b]

a Cir. Ord. No. 1, Jan. 2, 1837.

b Idem, No. 71, Aug. 22, 1837.

Respecting the decision of boundary disputes in regard of lands liable to assessment under Reg. 3, 1828, the Board directed in 1833, that they should be disposed of under the direction of the Special Commissioner.[c] Government subsequently decided that in all such cases of disputed boundaries application must be made to the final Resumption Tribunal (the Special Commissioner) who would either decide summarily in execution of his own decree, or order the institution of a new suit.[d] This order was subsequently modified by the Government of Bengal at the suggestion of the Supreme Government; and it was directed that when an enquiry into the liability of land to assessment under Reg. 2, 1819, had been instituted, the Resumption officer was to establish the position, extent or existence of the land by survey and measurement, if it had not been done before, previously to passing a decision. The Resumption Courts were to execute their own decrees. But if a Lakrajdar denied that the land included in a decree was in his occupation, but said that it was in that of another who was no party to the suit, such land could not be subject to assessment without a fresh suit against the party in possession.[e]

c Idem, No. 29, Nov. 12, 1833, Pr. 6.

d Idem, No. 68, Oct. 16, 1838.

e Idem, No. 23, Sept. 11, 1839.

SECTION IX.

Special Commissioners.

In 1828 it was resolved to appoint SPECIAL COMMISSIONERS to hear and determine finally all cases of resumption; and it was enacted, as follows:[f]

f Reg. 3, 1828. *Preamble.*

The Governor General in Council might appoint one or more Special Commissioners for the final determination of all cases investigated by Resumption officers under the fifth and fifteen subsequent Sections of Reg. 2, 1819, and Sect. 5, Reg. 9, 1825. The Special Commissioner was also to decide all cases brought to contest the demand of the Revenue officer on the plea that the demand was more than the party was bound to pay, and which involved the question of a permanent increase or decrease of the public revenue.[g] The jurisdiction of the Special Commissioner was to extend to the districts selected by the Governor General, who might fix and appoint the functions of each Commissioner and assign him local jurisdiction.[h]

g Reg. 3, 1828, Sect. 2, Cl. 1.

h Idem, Sect. 2, Cl 2.

When a Special Commissioner was vested with *jurisdiction* by the Governor General in a district or division, notice was to be given by proclamation in all Courts, civil or fiscal.[a] When notice has been thus given of the appointment of a Special Commissioner, the powers vested in and exercised by all those Courts of the nature cognizable by the Special Commissioner, was to be suspended, and the proceedings stayed, till they were informed that the jurisdiction of the Special Commissioner had ceased. The Courts were to transmit to the Special Commissioner all records of such cases pending before them. And no appeal was to lie to any established Court of Judicature from any decision passed by the Revenue Board or Collector regarding the revenue of lands, previously to or pending the appointment of the Special Commissioner.[b] Cases decided by the Board before the jurisdiction of a Special Commissioner was established, and which would have been appealable to the Courts of justice by Sections 22 and 24, Reg. 2, 1819, and Sect. 5, Reg. 9, 1825, were to be appealed to the Special Commissioner, and heard and determined like appeals from Collectors.[c] This rule again was modified in the next year, and a special provision was made to suit the case of a Special Commissioner who might be called upon to hear and decide an appeal from his own act and judgment done or passed while he was Collector or Member of the Board of Revenue, or Judge of a Zillah Court, or of a Provincial Court.[d] In such cases the Special Commissioner was to report the case to Government, who would direct some other Special Commissioner, or other tribunal to decide it.[e] Notice of the appointment of a Special Commissioner was also to be communicated to the Board of Revenue, and the powers vested in the Board by Regulation 2, of 1819, and Reg. 9, of 1825, (except Sect. 4, of the last mentioned Regulation) were to be suspended; all proceedings in those cases then pending before the Board were to be stayed, and all cases of the nature described in the Preamble to this Regulation, transmitted to the Special Commissioner.[f] In suits thus transferred by the Courts or the Board to the Special Commissioner, he was to decide upon the remuneration due to the vakeels employed in conducting the suits before the Court or Board, and generally how costs previously incurred should be borne. The sums in deposit for fees were to remain till the case was decided.[g] The Governor General might invest the Special Commissioner with any or all the powers of the Board.[h]

[a] Reg. 3, 1828, Sect. 2, Cl. 3.
[b] *Idem*, Sect. 2, Cl. 4.
[c] *Idem*, Sect. 2, Cl. 5.
[d] Reg. 4, 1829, Sect. 2, Cl. 1.
[e] *Idem*, Sect. 2, Cl. 2.
[f] Reg. 3, 1828, Sect. 2, Cl. 6.
[g] *Idem*, Sect. 2, Cl. 7.
[h] *Idem*, Sect. 3.

With regard to the *Decisions* of Special Commissioners, it was ruled that in all cases decided by them, of whatever kind, their award should be final, except in cases of such an amount that, if passed by the Sudder Court, they would be appealable to the King in Council. Such cases might be appealed to England, but they were to be executed and enforced notwithstanding the appeal. A Special Commis-

sioner might review his own judgment, upon sufficient reason being shown for a new trial.[a] When a decision passed by a Collector, Board, or inferior Court, had been appealed to a higher court, and the appeal had been transferred to the Special Commissioner, if he coincided with the decision of the inferior court, the decision of a single Special Commissioner was to be final, except appealed to England. But when the Special Commissioner believed that the last award ought to be reversed, or altered, the case was to go before another Special Commissioner; if he disagreed with the first, to a third, so that it might be decided by the concurrent voices of two Special Commissioners. The Governor General might, on appointing a Special Commissioner, fix to what other Special Commissioner such cases of difference were to be referred.[b] The Special Commissioner might send such instructions to the Collectors within their jurisdiction in reference to cases investigated under Reg. 2, of 1819, and Reg. 9, of 1825, as they deemed fit, and if necessary, refer cases to them for re-trial.[c] The Courts and Revenue Officers were to afford the Special Commissioner all aid and information required, serve all processes as if issued by themselves, prepare and transmit all required lists of cases decided or pending before them, and furnish all papers and documents.[d] The Special Commissioner might require the Zillah Courts or Collectors to examine witnesses on written interrogatories, to enquire and report on particular points, just as the Courts are required to do on the receipt of precepts from a higher court.[e] All precepts issued by the Special Commissioner to Collectors and Deputy Collectors (except the Resumption Special Deputy Collectors directing Mofussil investigations) were to be issued through the Revenue Commissioner, who was to attend to them; and inform the Special Commissioner of the period fixed for the deputation of Collectors and Deputy Collectors on these duties and the impediments which might prevent the execution of them within the time proposed.[f] The process of the Special Commissioner was to be enforced in the same manner and under the same sanctions as the process of the Courts of Justice; and the powers of those Courts regarding contempt, summoning and examining witnesses, and administering oaths, were vested in the Special Commissioner.[g] The Special Commissioner was directed to order the Zillah Court to execute his decisions, and those Courts were to execute them as they did those of the Provincial and the Sudder Court.[h] The rules in the Regulation relative to the Native officers of the Zillah Courts were made applicable to those officers of the Special Commissioners, except when they might, with the sanction of Government, determine otherwise.[i] All persons guilty of perjury or subornation before a Special Commissioner were on conviction to be punished according to the Regulation.[j] The Com-

a Reg. 3, 1828, Sect. 4, Cl. 5.

b *Idem*, Sect. 4, Cl. 6.

c *Idem*, Sect. 6, Cl. 2.

d *Idem*, Sect. 7, Cl. 1.

e *Idem*, Sect. 7, Cl. 2.

f Cir. Orders, No. 4, Jan. 9, 1837.

g Reg. 3, 1828, Sect. 6, Cl. 3.

h *Idem*, Sect. 6, Cl. 4.

i *Idem*, Sect. 6, Cl. 5.

j *Idem*, Sect. 6, Cl. 6.

missioners might commit such persons for trial, and any Magistrate receiving a Roobukaree from a Commissioner ordering commitment, was to act on it.[a] The Special Commissioners were to furnish government with such statements and reports as might be ordered.[b] The Special Commissioner was, previous to entering on his office, to take the oath prescribed by the Governor General.[c] The Revenue Commissioner might authorize disbursements which had been directed by the decrees of the Special Commissioners.[d]

a Reg. 3, 1828, Sect. 6, Cl. 7.
b Idem, Sect. 8.
c Idem, Sect. 9.
d Cir. Ord. No. 64, July 25, 1837.

A Government Agent was directed to be appointed at the Cutcherries of the Special Commissioner, who was to receive his remuneration chiefly through means of a percentage on all the cases pleaded by him, the final decision of which produced a clear addition to the public revenue. The scale of remuneration sanctioned by Government was that proposed by Mr. Molony, 9th August, 1828.[e] But as the Government pleader was to be paid by a percentage calculated on the actual rent assessed on the lands, and as the assessment of many estates was delayed, he was kept long out of his money. This was represented by the Special Commissioner of Patna, as a hardship and a discouragement. A long correspondence was the result of this representation, and it was at length decided by Government, that ten annas per bigah of land *in cultivation* was to be the basis on which the remuneration of the Government pleaders in the Courts of Special Commissioners should be calculated; and that all arrears due to that date were to be calculated at that rate.[f] It was also ordered, that when the Revenue Commissioner appealed against any decision passed by a resumption officer against Government, he should, by a perwannah to the Government Agent, set forth clearly the grounds on which he rested his petition of appeal. The Revenue Commissioner was also to notice all cases in which the Government Agent did not return the proposed pleading in the time specified in the Perwannah. Having received the pleading, the Revenue Commissioner was to revise and correct it, and either record his approval or prepare an amended one, and forward it to the Government Agent to be filed in the Court of the Special Commissioner.[g]

e Idem, No. 10, Feb. 5, 1830.
f Idem, No. 72, Aug. 22, 1837.
g Idem, No. 55, Nov. 16, 1835.

SECTION X.

Rules of Practice in the Courts of the Special Commissioner.

The Special Commissioner was to be guided by the rules prescribed by the Governor General regarding the form of proceeding, the nature and number of pleadings, the paper, stampt or plain, to be used, the fees, and generally the rules of practice to be followed.[h]

h Reg. 3, 1838, Sect. 6, Cl. 1.

The several cases received for trial by the Special Commissioner

were to be numbered and entered on separate file books; one for *Lakheraj* Lands, or tenures claimed to be held free; one for claims to hold land at a *Mocurreree* jumma or to resist assessment on the plea that it was included in settled estates as *Halabad, Noabad, Towfeer*, and *Puteetabadee;* one for *Churs and Jungle* lands. Each file was to be kept according to a form annexed.[a] The Commissioner was to entertain a Mohafez Duftur, who was to have charge of the Records of cases. All officers employed by the Commissioner were to be exclusively under his control.[b]

a Reg. 3, 1828, Rules of Practice, Sect. 1.

b *Idem*, Sect. 2.

SECTION XI.

Rules for admission of Appeals.

When the record of a case was transferred by a Court of Justice to a Special Commissioner, he was to acknowledge the receipt of it, and to request the Court to intimate the transfer to the parties concerned. The Special Commissioner was also to issue a notice, to be served through the Zillah or City Court, ordering their attendance to prosecute or defend the suit. The notice was to be served as hereafter directed.[c] In cases transferred by the Board of Revenue to a Special Commissioner the Board was to notify the transfer to the parties, and notices as above were to be issued to them by the Special Commissioner through the Zillah or City Court.[d] When any person, dissatisfied with the decision of a Collector, presented a petition of appeal to the Collector, under Reg. 3, 1828, Sect. 4, Cl. 2, that officer was to retain a copy of the record of the case in his own office and transmit the original, with a list of the papers it contained to the office of the Special Commissioner. The Collector was to be specially careful that all Sunnuds and other documents were accurately and faithfully copied for record in his office. The original record was to be sent to the Special Commissioner in all practicable cases in fifteen days from receiving the petition of appeal.[e] The day the original record in an appeal case was sent to the Special Commissioner, the Collector was to inform the appellant of it and require him to attend the Commissioner in six weeks from receiving the notice and prosecute his appeal. Any other person, not a public officer, who might be a party in the case was to receive a similar notice, and the due service of these notices, on their return to the Collector was to be certified to the Commissioner.[f] On thus transmitting the records of an appealed case, the Collector was to give due notice of the admission of the appeal, to the Government Agent at the Court of the Special Commissioner.[g] If a petition of appeal from the decision of a Collector, or a Board was preferred direct to the Special Commissioner, an authenticated copy of

c *Idem*, Sect. 3.

d *Idem*, Sect. 4.

e *Idem*, Sect. 5.

f *Idem*, Sect. 6.

g *Idem*, Sect. 7.

the decree appealed from, was to accompany it. On admitting it, the Special Commissioner was to issue a precept to the Collector, if appealed from him, ordering the transmission of the original records (a copy being retained in his office) within a specified time to the Special Commissioner's office. If the appeal was from the Board of Revenue, the Special Commissioner was to require the Board by a Persian Roobukaree to transmit the records.[a] When on admitting the appeal and perusing the decree appealed from, it appeared that others besides the appellants and the public officers were interested in the suit, they were to be summoned through the Zillah or City Courts, and due service of the notice was to be certified by the Judge to the Special Commissioner.[b] In cases referred by the Board to the Special Commissioner, the notice for the attendance of the respondents and any one else, not being a public officer, was to issue through the Judge of the district in which the party resided.[c] In reference to Reg. 3, 1828, Sect. 4, Cl. 3, and Sect. 6, Cl. 2, when a petition of appeal against his decree of assessment was presented to a Collector, or he learnt that the party was about to appeal to the Special Commissioner within the specified time, he was not to execute his decree, till after the period for appealing had passed,—unless sooner apprized that an application to stay execution had been rejected by the Special Commissioner. In that case, he might execute it before the period of appeal was passed; otherwise he was to execute it immediately after that period, unless the Special Commissioner forbad it.[d] When the petition of appeal was preferred direct to a Special Commissioner, he might, if he saw fit, direct the Collector to suspend the execution of it at the same time that he called for the original records of the case.[e]

a Reg. 3, 1828, Rules of Practice, Sect. 8.

b Idem, Sect. 9.

c Idem, Sect. 10.

d Idem, Sect. 11.

e Idem, Sect. 12.

SECTION XII.

Rules regarding Pleadings.

Every petition of appeal presented to a Special Commissioner from the decision of the Board or a Collector, was to be written on Stamp paper, value One Rupee.[f] The appellant might state the grounds of appeal in the first petition, or reserve his arguments for a separate pleading; in which latter case, it was to be written on a Rupee stamp.[g] In appeals in which a public officer was respondent, the reply was to be written on a Rupee stamp. The reply must either expressly refute the plea of the appellant, or rest the defence on the grounds recited in the decree.[h] When the Board (or Revenue Commissioner) appealed to the Special Commissioner from the decision of the Collector, the appealing Board, or Commissioner, was to direct some public officer to file a pleading on a Rupee stamp containing the

f Idem, Sect. 13.

g Idem, Sect. 14.

h Idem, Sect. 15.

grounds of dissatisfaction with the Collector's decision.[a] The reply of the party opposed to the Government was to be written on a Rupee stamp.[b] When the Collector had decided in favour of assessment, and the case was appealed to the Special Commissioner, the pleadings were to be filed in appeal under the immediate responsibility of the Collectors, without reference to superior authority, he being at liberty to apply to the Revenue Commissioner or Board for instructions.[c] No miscellaneous pleading or petition besides the Wujoohat of the appellant, and the reply of the respondent was to be admitted, unless on a verbal representation by the parties before the Special Commissioner an additional petition or pleading appeared necessary. It was also to be written on a Rupee stamp.[d] But this rule was not to prevent the reception of petitions solely for staying execution, which might be always received pending the appeal.[e] All petitions for a review of judgment, (Reg. 3, 1828, Sect. 4, Cl. 5,) if presented in *two* months from the date of the decision, were to be written on a Rupee stamp; if after that period, on Stamp paper, (Reg. 1, 1814, Sect. 13,) calculated at the computed annual produce of the disputed land.[f]

a Reg. 3, 1828, Rules of Practice, Sect. 16.

b *Idem*, Sect. 17.

c Cir. Ord. No. 62, Sept. 10, 1830.

d Reg. 3, 1828, Rules of Practice, Sect. 18.

e *Idem*, Sect. 19.

f *Idem*, Sect. 20.

SECTION XIII.

Rules regarding default.

If the appellant did not attend in person or by agent and prosecute his appeal, within six weeks from the date of instituting it, if preferred direct to a Local Commissioner, or, if filed at the Collector's office, from the day of his being informed that the record of appeal had been transmitted to the Special Commissioner, a farther notice was to be issued by the Special Commissioner through the Zillah and City Court to him, to attend his appeal in fifteen days after receiving it. If the appellant omitted or refused to attend, the appeal was to be dismissed with costs.[g] The Special Commissioner of Patna found that as his jurisdiction extended from Bhaugulpore to Patna, it was necessary to extend the time allowed for prosecuting appeals, otherwise the majority of the appeals must be dismissed ex-parte. The Special Deputy Collectors on this adopted the plan of addressing a perwannah to the Government pleader directing him to inform the Special Commissioner that particular cases had exceeded the allotted period, and to solicit that they be decided forthwith. Government, on the case being represented, forbad all interference by the Special Deputy Collector with the exercise of the power vested in the Special Commissioner by Reg. 3, 1828, Sect. 4, Cl. 2. If he was dissatisfied with the latitude of time given by the Special Commissioner for appeals, he was to report the matter for the consideration of the Board.[h]

g *Idem*, Sect. 21.

h Cir. Ord. No. 15, Feb. 20, 1837.

The Special Commissioner of Patna also informed Government *at the same time* that the Government Pleader was incessantly called on by the Special Deputy Collector for returns of various descriptions, which left him no time for the more important duties of preparing and transcribing pleadings for transmission to the Special Deputy Collector; and having at the same time proposed the form of a Quarterly Report, to be filled up and forwarded every three months to the Special Deputy Collector, Government desired the Board to state whether that form of quarterly report would not suffice for all useful purposes, the principal object being the punctual issue of the prescribed copies of decrees. The Board agreed to this suggestion and ordained that it should supersede all the forms hitherto demanded from the Government Vakeel.[a]

a Cir. Ord. No. 15, Feb. 20, 1837.

If an appellant, having appointed an agent at the Special Commissioner's Court, did not prosecute his appeal for six weeks, the Commissioner might send a requisition to proceed in the case within fifteen days to the agent, which should be equivalent to giving notice to the appellant, and if the appeal was not proceeded with, it was to be dismissed.[b] Notices to any public officer concerned in a suit before the Commissioner, was to be delivered to the Government Agent at his Cutcherry, who was to transmit a copy of it to the officer concerned and return the original.[c]

b Reg. 3, 1828, Rules of Practice, Sect. 22.

c *Idem*, Sect. 23.

SECTION XIV.

Rules regarding Evidence and Fees.

If the Special Commissioner, acting on his discretionary power, thought it necessary to receive farther evidence, oral or documentary, no stamp fees were to be exacted for summoning witnesses, or filing exhibits.[d] If the Special Commissioner required the farther evidence of witnesses, the Judge of the Zillah or City in which they resided was to examine them on the points specified by the Commissioner. A party requiring a witness might undertake to produce him or serve the subpœna himself, otherwise it might be served by the City Judge. The same course was to be followed in examining a witness before a Special Commissioner.[e]

d *Idem*, Sect. 24.

e *Idem*, Sect. 25.

SECTION XV.

Rules regarding Mooktars or Agents, and their remuneration.

Any party having an appeal before a Special Commissioner, might plead his own cause in person, or appoint an agent.[f] If he appointed

f *Idem*, Sect. 26.

an agent, he must give him a regular power of attorney, on unstampt paper, attested by some European officer, to be filed on the records of the case.[a] He might appoint as many agents as he pleased provided they were men of good character and respectability.[b] He might make his own arrangements with those agents regarding their remuneration; if on the decision of the case, the parties could agree about the remuneration, the Commissioner was to fix the amount. If any agent, without waiting for a final adjustment, declined to act any farther, he might be required, at the instance of his principal, to refund whatever he had received for conducting the cause.[c] Every agent conducting a cause before the Special Commissioner, was to be subject, like the regular pleaders of the Courts of Justice, to the Regulations, in regard of fines, penalties for neglect, contempt of court, or other misdemeanors.[d] A Government Agent was to be appointed to attend at each Cutcherry of the Special Commissioner; who was to be liable to all the rules which applied to Government pleaders generally, as well as to those laid down for agents pleading before the Special Commissioner.[e]

a Reg. 3, 1828, Rules of Practice, Sect. 27.
b *Idem*, Sect. 28.
c *Idem*, Sect. 29.
d *Idem*, Sect. 30.
e *Idem*, Sect. 31.

SECTION XVI.

Rules regarding Decrees and Costs of Suit.

In passing judgement, if the Special Commissioner saw fit to interfere with the compensation made by parties to their agents, the amount of remuneration which he might fix, was to be inserted as costs at the foot of the decree. The Commissioner was also to decide whether the party cast, should bear the whole or any part of the costs incurred by the party opposed to him, including those indicated in Reg. 3, 1828, Sect. 2, Cl. 7.[f] The original decrees of the Special Commissioner were to be kept with the records of the case, which, together with three other copies were to be written on English paper; one of them to be given to the party opposed to Government, another to be sent to the Collector of the district, and a third to the Board of Revenue. Other copies of the decree required by the parties, were to be written on plain or stampt paper as the regulations directed but only by persons authorized by the Commissioner to prepare them.[g] The Commissioner, on sending the decree to the Collector was to instruct him immediately to execute it, and to report within a given time the measures he has adopted for that purpose.[h]

f *Idem*, Sect. 32.
g *Idem*, Sect. 33.
h *Idem*, Sect. 34.

SECTION XVII.

General Rules.

In matters not specifically provided for by the rules in this Appendix, or in Reg. 3, 1828, the Commissioners were to act according to the rules laid down for the Courts of justice in the decision of regular appeals.[a] The Special Commissioner may propose either new rules of practice, or rules in modification of the present rules. He will transmit them to each of the Special Commissioners, who will record their sentiments, so that they may go up to Government, accompanied by the observations of all the Commissioners.[b]

a Reg. 3, 1828, Rules of Practice, Sect. 35.

b *Idem*, Sect. 36.

SECTION XVIII.

Of claims for rent-free lands, preferred by one private individual against another, or against Government.

In 1793, Government ordained that all grants of land on Hookamee tenures, less in amount than a hundred bigas, should, if resumed, belong to the Zemindar; and that the Zemindar was to institute a suit for the recovery of it in the Civil Court; and that if he subjected such land to assessment without a decree, he would be liable to damages.[c]

c Reg. 19, 1793, Sect. 11.

It was ordered in 1819 that all such suits preferred in a Court of Judicature by proprietors, &c. to the rent of lands under 100 bigas held free of assessment within their estates, or of individuals to hold lands free of assessment, should be referred to the Collectors; but that the claim might be preferred at once to the Collector. The plaintiff was to state the particulars of his claim and the grounds of it, and the petition of plaint was to be on the usual stampt paper.[d] Such suits being thus referred to the Collector, could not be entertained by Sudder Ameens or Moonsiffs.[e] The Collector, on receiving such a petition, was to serve a notice on the defendant with a statement of the demand, and desire him to attend within one month, personally or by vakeel, and to produce the sunnuds on which he held the lands or claimed them free of assessment.[f] The defendant having appeared and delivered his deeds, the Collector was to allow the claimant to inspect them and give him seven days to put in a statement of the grounds (in reference to the documents) on which he considered the tenure invalid, and the lands liable to assessment, together with his documents.[g] The claimant, having delivered his statement and documents, the Collector was to investigate and decide

d Reg. 2, 1819, Sect. 30, Cl. 1.

e Cir. Ord. No. 95, Aug. 30, 1833.

f Reg. 2, 1819, Sect. 30, Cl. 2.

g *Idem*, Sect. 30, Cl. 3.

the case as he did when he proposed to assess lands for Government.[a] The same rule was to apply regarding stamps on summoning witnesses and filing exhibits as for suits instituted in the Zillah Courts.[b] If Government was not a party to the suit, and it had been referred from the Civil Court, the Collector, on closing his proceedings, was to transmit them with all the documents and his opinion, to the Court, and the Court was to decide the case, calling, if necessary, for farther documents, but no sunnud or documentary evidence not delivered in to the Collector was to be received in the Civil Court except the omission was satisfactorily explained.[c] In cases preferred directly to the Collector, either party dissatisfied with his decision, might appeal to the Civil Court on a Rupee stamp, in not more than *three* months, unless good reason was shewn for the delay.[d] The Judge, on receiving the petition, was to require of the Collector all the proceedings and documents, and investigate and decide it, as if instituted before him originally.[e] In cases in which Government was the defendant, or in which the revenue of the lands claimed, formed part of an estate liable to variable assessment, the Collector was to submit his proceedings when closed, to the Board of Revenue, for their decision. If it was a case referred from the Civil Court, the Collector was to postpone his return to the reference, till the Board's orders were received. If the claim had been preferred to the Collector originally, the civil courts were not to interfere till the Board's reply arrived. The Board's decision was to be sent in a Persian Roobukaree to the Collector. If the case had been originally preferred to the Collector, the party dissatisfied with the Board's decision, might appeal to the proper Court in *three* months from the time the decision was given to him or his vakeel, or the Board's Roobukaree had been brought on the Collector's records.[f] If the appeal was not made in three months, or good reason was not given for the delay, the Board's decision was to be carried into effect, on the application of the successful party, by the Courts of judicature.[g] Where the right of resuming the revenue of free lands, or of recovering possession, under such a tenure, of lands subjected to assessment, was adjudged by the Revenue Authorities, the Courts were to execute the decision, notwithstanding the appeal, unless the party gave good security for paying the mesne profits.[h] In cases appealed from the Revenue Authorities and decided by the Civil Courts, whether the claim was originally preferred to the Courts or Collectors, a special appeal only was allowed to the Superior Courts, except in cases of appeal to the King in Council. Such appeals were to be regulated by Section 26 of this Regulation.[i] In 1832 it was enacted that the special appeal from the decision of the Civil Court was to

a Reg. 2, 1819, Sect. 30, Cl. 4.
b *Idem*, Sect. 30, Cl. 5.
c *Idem*, Sect. 30, Cl. 6.
d *Idem*, Sect. 30, Cl. 7.
e *Idem*, Sect. 30, Cl. 8.
f *Idem*, Sect. 30, Cl. 9.
g *Idem*, Sect. 30, Cl. 10.
h *Idem*, Sect. 30, Cl. 11.
i *Idem*, Sect. 30, Cl. 12.

lie to the Sudder Dewanny after Reg. 5, of 1831 had been introduced into a district.[a]

[a] Reg. 7, 1832, Sect. 13.

When an individual instituted a claim against Government to hold lands free of assessment, on a *Hookamee* tenure, the Collector was to defend it. If Government was cast, or the Collector was dissatisfied with the decree, the rules laid down in Sect. 30, Reg. 14, 1793, were to be applicable to the case; only that the cause was to be carried on at the expense of Government. If the Board did not think fit to order an appeal, their reasons were to be stated to the Governor General, who was to direct the cause to be appealed or not.[b] The same rule was laid down with regard to claims by individuals to hold lands free of assessment on *Badshahee* tenures.[c]

[b] Reg. 19, 1793, Sect. 15.

[c] Reg. 37, 1793, Sect. 10.

In the year 1825, it was ordained in reference to persons *claiming to hold land exempt from Revenue*, that the party should deliver to the Collector with the plaint, all sunnuds and writings; and specify in the petition the particulars required to be registered by existing rules relative to registry, and the grounds of the claim. If the claim involved only the interest of Government, the Collector was to investigate it without delay, after giving eight day's notice to the party. If the claim was against any person, singly, or jointly with Government, the Collector was to give him a month's notice, requiring him or his vakeel to attend with any papers or evidence in denial of the claim. On appearing, he was to be allowed to inspect the complainant's plaint and documents, and to be required to give in his objections in seven days. The only pleadings required were the plaint and answer, but the Collector might receive subsidiary pleadings. The Collector was to give eight days notice to the parties, and investigate the case as soon as possible. When the parties signified by a written Ikrarnamah their desire to have an immediate decision, (whether the case originated in a claim on behalf of Government, or at the suit of an individual, and whether the Collector's proceedings were held under Reg. 2, 1819, or any other Regulation) the Collector might proceed forthwith to investigate it, without any formal summons or notice.[d]

[d] Reg. 9, 1825, Sect. 5, Cl. 11.

It was subsequently ordered that the provisions of Reg. 3, 1828, were not to extend to cases under Reg. 2, 1819, Sect. 30, save when they involved the right of Government to assess all or any portion of the lands on which the suit was brought. In such cases, in which Government was a party, the Collector, whether the suit was instituted before him or referred to him, was to investigate and decide it in the mode prescribed in Sect. 4, Reg. 3, 1828, the several clauses of which were to be held to apply to such suits. But in all other cases, in which Government was not a party, he was to act under

Reg. 2, 1819, Sect. 30, and to decide according to that Regulation and its modifications in Reg. 9, 1825, Sect. 5.[a]

Claims under Sect. 30, Reg. 2, 1819, between individuals respecting the rent of free lands were to be decided by the ordinary Revenue Authorities and not to be referred to the Special Deputy Collector.[b] And, generally, cases under Reg. 2, 1819, Sect. 30, were declared not to be within the province of the Special Deputy Collector, and all duties under that section were to be retained by the Collector.[c] On a reference from the Commissioner of Bauleah it was also ruled, that suits for the resumption of lands, under grants of less than 100 bigas in permanently assessed Estates, of which Government had become *proprietor by purchase*, were to be decided by the Collector under Reg. 2, 1819, Sect. 30, and not referred to the Resumption officers.[d] And, when such lands within 100 bigas, came under the cognizance of the settlement officers, as being included within an estate which had become Government property, it was forbidden to make a separate settlement statement of them, but the jumma was to be included in the gross assets of the Estate to which they belonged, when that settlement was concluded and submitted to Government.[e]

a Reg. 3, 1828, Sect. 5.

b Cir. Ord. No. 23, April 18, 1837.

c *Idem*, No. 30, May 9, 1837.

d *Idem*, No. 69, Aug. 14, 1837.

e *Idem*, No. 77, Sept. 22, 1837.

SECTION XIX.

Rent-free lands held by independent chiefs.

When an independent chief held only an ordinary rent free tenure, his title was not to be lightly called in question, and the investigation of its validity was to be conducted by the Political not the Revenue Authorities.[f]

f *Idem*, No. 29, Aug. 12, 1840.

CHAPTER III.

SETTLEMENT OF RESUMED BADSHAHEE AND HOOKAMEE TENURES.

SECTION I.

Settlement of Badshahee Tenures.

In modification of the rules in Reg. 37, 1793, Reg. 42, 1795, Reg. 36, 1803, or other regulations, relative to the settlement of resumed Badshahee tenures; and in qualification of all rules for the settlement of resumed Lakraj tenures, it was ordered, that when such tenures had been pronounced invalid, the Governor General, when just and necessary, might in consideration of the long possession of the occupant or his ancestors direct his continuance in possession though not the Zemindar or Malik, on such terms as might be prescribed by Government; and in that case the provisions of Sections 2 and 3 of this regulation were to be applicable and be maintained by the Courts.[a]

[a] Reg. 13, 1825, Sect. 5.

When a Badshahee tenure, was declared liable to assessment, if the original grantee, or his representatives had enjoyed, for *sixty* years, the uninterrupted possession and management of it, or had received a specific portion of the produce of the lands, as rent, from a party occupying them as their agent or farmer, not having a proprietary right in them, the Resumption Officer, as in the case of Regulation 13, 1825, Sect. 5, was to report the case, that a settlement might be made with the *Lakrajdar* under the rules of Reg. 8, 1793, Reg. 7, 1822, Reg. 9 of 1825, and Reg. 9 of 1833. The tenure thus settled, was to be held hereditary and transferrible. The person claiming the proprietary right was not at liberty to disturb the Lakrajdar; and any suit preferred with this object in any court, was to be dismissed.[b]

[b] Cir. Ord. No. 62, June 14, 1837, Rule 1.

If the proprietor or malik had continued to possess and manage the lands, after the tenure was created, paying the Government share of the produce to the Lakrajdar, the settlement was to be made with the Proprietor, and the Lakrajdar, if needy, was to receive a pension for life.[c] When the settlement was made with the Lakrajdar, if the person claiming the proprietary right had received malikana, for twelve years preceding the resumption, or preferred a well grounded claim for it within that time to a competent tribunal, he was to receive from Government through the Collector, an annual allowance in perpetuity equal to 10 per cent. on the net rental.[d] This Malikana was

[c] *Idem*, Rule 2.

[d] *Idem*, No. 38, May 29, 1838.

in all cases to be borne by the state and by the engaging Lakrajdar in shares proportioned to their shares of the whole rental. If the settlement assigned 50 to the state, and 50 to the Lakrajdar, the Malikana was to be paid by these two parties in equal shares.[a] If the party claiming the proprietary right was allowed Malikana, he was to receive over and above it, a money compensation for loss of settlement, on a specific calculation, which is detailed in the Orders.[b] No claim to malikana, not preferred to Government, before the confirmation of the settlement with the Lakrajdar, was to be entertained by Government or cognizable in a Court.[c] If the Lakrajdar refused to engage under Rule 1, on the terms approved by the Board, the settlement was to be made with the Malik, if there was one, and the recusant Lakrajdar was to receive no Malikana.[d] If the title deeds of a Lakrajdar were declared by a competent Court to have been forged or fraudulently altered, no length of possession was to entitle him to a settlement; the settlement was to be made with the Malik. But Government, in its executive capacity, might admit the Lakrajdar to a settlement; and the claim of a party holding a tenure by right of purchase, who could prove that it was made in good faith, and in the belief that the title deeds were sound, was not to be endamaged thereby.[e] This was explained subsequently to mean that the penalty of exclusion was to be enforced in case of forgeries only, where a fraudulent intention was apparent on the part of the present possessor.[f]

a Cir. Ord. No. 22, Aug. 21, 1839.

b *Idem*, No. 62, June 14, 1837, Rule 6.

c *Idem*, Rule 7.

d *Idem*, Rule 8.

e *Idem*, Rule 9.

f *Idem*, No. 27, July 29, 1840.

SECTION II.

Settlement of Hookamee Tenures.

The Principles of Sect. 2 and 3, of this Regulation (13 of 1825,) were to be considered applicable to all cases of resumed Lakraj, which came within the favourable rate of assessment ordered in 1793, Reg. 19, Sect. 8, Clause 2; because it appeared equitable that those who had long possessed the Lakraj tenure should be left in possession of it, at a moderate assessment not exceeding one half the annual rent produce.[g]

g Reg. 13, 1825, Sect. 4.

When a Hookamee Tenure was declared liable to assessment, if the original grantee or his representative had continued in the uninterrupted possession of it for sixty years, or during that time had received a portion of the produce, under the denomination of rent from a party managing under him as agent or farmer, not having a proprietary right in the lands, the Resuming Officer was to report the case according to Sect. 5, Reg. 13, 1825, that a settlement might be made

with the Lakrajdar; the tenure was to be hereditary and transferrable; and the party claiming the proprietary right was not to disturb the possession, and the Courts were to admit no claim.[a]

a Cir. Ord. No. 62, June 14, 1837, Rule 1, Cl. 1.

If the original grantee or his successors had not enjoyed the tenure for sixty years, but possessed it before December 1, 1790, the settlement was to be made with the Lakrajdar in the manner provided above; any dispute for proprietary right between the grantee and grantor, was to be determined in the Civil Courts; and the Lakrajdar was to continue in possession till dispossessed by a competent Court.[b] If the proprietor of lands thus resumed, should have continued to possess and manage the lands, after the creation of the tenure, paying the Government share of the produce to the Lakrajdar, the settlement was to be made with the proprietor, and the Lakrajdar, if needy, was to receive a provision for life from Government.[c] When the settlement was made with the Lakrajdar, if the person claiming the proprietary right had received Malikana for twelve years preceding the resumption, or had preferred a well grounded claim to it, within that time, before a competent tribunal, he was to receive from Government through the Collector, in perpetuity, an annual allowance equal to 10 per cent. on the net rental.[d] If the person claiming a proprietary right was allowed Malikana, he was to receive when the settlement was made with the Lakrajdar, a money compensation for loss of settlement, calculated according to the rule laid down in the Order.[e] By a subsequent Circular Order, however, it was ruled that this Rule 7 was not to include cases in which the Maliks under Sect. 4, Reg. 13, 1825, had been debarred from settlement by an equitable law; and that in these cases, they were not entitled to any compensation for loss of settlement.[f] No claim to Malikana which had not been preferred to the Revenue Authorities before the settlement with the Lakrajdar was confirmed by Government, was to be entertained by the public officers or recognized in the Courts.[g] If a Lakrajdar, entitled to settlement under Rule 1, refused to engage on the terms of the Board, the settlement was to be made with the proprietor, and the Lakrajdar was to forfeit all claim to Malikana.[h] The same rule was also passed with regard to forged and fraudulent Hookamee titles, which was applied to Badshahee tenures;[i] and the same indulgent construction was to be put on the rule in the one case as in the other.[j]

b *Idem*, Rule 1, Cl. 2.

c *Idem*, Rule 3.

d *Idem*, No. 38, May 29, 1838.

e *Idem*, No. 62, June 14, 1837, Rule 7.

f *Idem*, No. 6, Feb. 26, 1840.

g *Idem*, No. 62, June 14, 1837, Rule 8.

h *Idem*, Rule 9.

i *Idem*, Rule 10.

j *Idem*, No. 27, July 2[illegible] 1840.

The Revenue officers employed in giving effect to these Rules, were to remember that the management of a free tenure by a Mokuddum or head ryut of a village, and his receipt from the Lakrajdar of an allowance for his services were not evidence of the Mokuddum's proprietary right; and that a claim for compensation for loss of settlement was not admissible, without evidence that the party advanc-

ing the claim, actually received from the Lakrajdar an allowance in acknowledgment of his proprietary claim up to the date of the resumption, or had preferred a well grounded claim within that time before a competent tribunal.[a]

a Cir. Ord. No. 62, June 14, 1837.

SECTION III.

Indulgence to disseized holders of Badshahee Grants.

Those who had been deprived by the Resumption laws of lands held free, under Badshahee Grants, were to be allowed a pension from Government for the life or lives of the persons actually ousted, unless they were *known* to have other adequate means of subsistence. Such pension was not to exceed in the aggregate half the assessment imposed on the tenure, and where there were more than one claimant it was to be divided among them.[b] No pension was to be granted except under the sanction of Government.[c] In cases not appealed, the Resuming officer, six months after the date of his decision, in cases appealed; and the Special Commissioner, immediately on his decision, was to communicate a copy of his decree to the Revenue Commissioner, who, on receiving a petition from the party, was to make a report through the Sudder Board to Government with a specification of the amount of pension recommended.[d] The Sudder Board was to report to Government on the subject, and, pending the reply, was to order such pension to be paid, temporarily, which they deemed fit.[e] The pension was to be considered permanent only from the date of the orders of Government; and it might be revoked on proof of any subsequent accession of property which rendered it unnecessary.[f] The pension was wholly to lapse on the death of the party or parties to whom it was given.[g] Such pension was to be paid with all necessary precautions from the treasury of the district from which the pensioner might desire to draw it.[h]

b *Idem*, No. 17, Feb. 22, 1836, Rule 1.

c *Idem*, Rule No. 2.

d *Idem*, Rule No. 3.

e *Idem*, Rule No. 4.

f *Idem*, Rule No. 5.

g *Idem*, Rule No. 6.

h " " Rule No. 7.

In pursuance of the orders given above, the Board of Revenue laid down the following Rules for the guidance of the Revenue Officers: The Special Commissioner was to be requested, immediately on declaring a Badshahee tenure invalid, to transmit copies of the Decree to the Revenue Commissioner. The Revenue Commissioner was also to give the necessary intimation on this point to the Collectors and Deputy Collectors under him.[i] The general rule was declared to be to allow pensions to the disseized holders of Badshahee tenures; the special exceptions were to be in cases in which they were known to have other means of subsistence. To ascertain the existence of these special grounds of exception, no vexatious investigations were to be

i *Idem*, Ord. 2.

made; but the Collectors were directed to make such enquiries as were immediately within their reach.[a] Where a permanent settlement of the Mehal could not be made immediately, the assessment, of which the disseized holder was to receive one half as a pension, was to be calculated on the best data that could be obtained.[b] But no step was to be taken, till the parties ousted by the Resumption decree prayed to be admitted to a pension; and hence a translation of the Rules was to be permanently fixed in a conspicuous place, in all the public offices of the District under the Commissioner.[c] As the pension was liable to alteration and diminution, on satisfactory proof that the individual had subsequently acquired the means of subsistence, the Board ordered that no minute or zealous scrutinies should be instituted to ascertain this point; all that was needed was that the bounty of Government should not be misapplied.[d]

a Cir. Ord. No. 17, Feb. 22, 1836, Ord. 3.

b *Idem*, Ord. 4

c *Idem*, Ord. 5.

d *Idem*, Ord. 6.

SECTION IV.

Amount of Assessment.

The original rules laid down for assessment were, that in reference to *Badshahee* grants which might be resumed, the rent should be adjusted according to the rules of the Decennial Settlement, and that on the refusal of the proprietor to pay it, the lands should be held khaus, or farmed.[e] With regard to *Hookamee* grants, it was ordered that on resumed grants which had been made previous to the Bengal era 1178, the revenue should be equal to one half the *annual produce* of the land. If any part of the land was uncultivated, the proprietor was to bring it into cultivation, and to pay a russud or progressive increase, to be fixed by the Board. The produce was to be ascertained by survey and measurement—half the expence of which the proprietor was to bear—or by any other eligible mode. The lands were to be let in farm or held khaus, if the proprietor did not agree to the rent. If he did, the rent was not to be liable to variation, but to be considered fixed to him and his heirs for ever.[f] If the grant had been made subsequently to the Bengal era, 1178, the rent was to be settled upon the rules laid down in Reg. 8, 1793. The expence of ascertaining the rent was to be divided as in the preceding section. If the proprietor did not agree to the rent, the lands were to be farmed or held khaus. If he did, the rent was never to be increased to him or his heirs.[g]

e Reg. 37, 1793, Sect. 6.

f Reg. 19, 1793, Sect. 8, Cl. 2.

g *Idem*, Sect. 8, Cl. 3.

These rules for assessment were modified in 1839, and it was ordained that all settlements of resumed land were in future to be made with the Lakrajdar who was entitled to a permanent settlement, at a

rate not greater than *one half the estimated gross rental.* Where the Lakrajdar was the cultivator, at not more than one half the gross rent value of the land. This rule was to take effect in favour of all lands, the settlement of which had not been approved of by the Governor of Bengal.[a] This indulgence was subsequently extended, and it was ordered that the same half jumma assessment should be extended retrospectively to all lands assessed at full rates since the 5th May, 1825, and which were still in possession of the Lakrajdars or their heirs.[b] But the jumma of all tenures which had passed to other hands whether by public or private sale, were to remain unaltered.[c] If any such resumed Muhal had been purchased by Government, subsequently to that date, for arrears, the jumma was to be readjusted on the half rental principle, and restored to the former proprietors, subject to subsequent obligations and incumbrances.[d] The readjustment of rent was to have effect from the 1st May, 1840; the gross assets were to be divided into two parts; one half to be considered as the allowance of the proprietor, the other moiety as belonging to Government. If Malikana was payable, it was to be deducted first, and the remainder was to be equally divided into two parts.[e] The proprietors of resumed Tenures assessed at full rates which had been or might be reduced on confirmation, were to receive back what they had paid in excess of the reduced rate, between the date of settlement and the day of confirmation. Any recusant Lakrajdar, who had not agreed to the terms of the assessment, might, on engaging at the reduced jumma, receive back the difference.[f] But no other refund of whatever kind was to be made.[g] Statements shewing the readjustment of jumma and the sum to be refunded were to be prepared according to authorized forms.[h]

a Cir. Ord. No. 28, Nov. 18, 1839.

b Cir. Ord. No. 30, Aug. 12, 1840, Par. 1.

c *Idem*, Par. 2.

d *Idem*, Par. 3.

e *Idem*, Par. 4.

f *Idem*, Par. 5.

g *Idem*, Par. 6.

h *Idem*, Par. 7.

As it happens that there are sometimes one or more Shikmee tenures within a resumed Muhal, the Board laid down, that according to the law last quoted, the jumma payable by the proprietor to the Malgoozar of the parent Muhal, was to be half the gross produce, from which was to be deducted 10 per cent. to the Malgoozar. Thus, if the gross produce of the Shikmee tenure was 100 Rupees, the jumma receivable by Government would be 45 Rupees. This allowance of 10 per cent. was to be assigned to the Malgoozar of the parent Muhal, whether he was entitled to a settlement at half jumma or not. The assessment of the superior and of the subordinate tenures was to be regarded as distinct accounts. The form of a memorandum to be attached in future to each settlement statement, exhibiting the assessment of both tenures was, at the same time, laid down by the Board.[i]

i Cir. Ord. No. 52, Aug. 7, 1838.

Government likewise ordered in 1839, that the Officers employed in settlement, should invariably exclude from assets of settlement the

cess termed Bhitouree, or Mohturfah, as being clearly a tax on trades or on capital, and not a lawful share of the rent.[a]

a Cir. Ord. No. 10, May 29, 1839.

The Commissioner was also ordered to notice in his marginal statements of settlement Reports, the date from which the settlement was to take effect.[b]

b Idem, No. 17, July 29, 1839.

SECTION V.

Settlement of Lands under a Hundred Bigahs.

The same rules which were originally enacted for the settlement of Hookamee resumed tenures, were made applicable to the assessment of lands within a Hundred bigahs, (Reg. 19, 1793, Sect. 8, Cl. 2,) with this difference, that the proprietor was to ascertain the produce of the land without any expence to the grantee, and report it to the Collector who was to fix the rent subject to the confirmation of the Board. If the proprietor agreed to pay the rent, he was to hold the land as a dependent Talook on a fixed rent for ever.[c]

c Reg. 19, 1793, Sect. 9.

SECTION VI.

Assessment of Chur Lands.

Whenever a Chur had been added to the estate of a proprietor, he had a right to be admitted to a *permanent* engagement for it, unless it had been farmed out in consequence of his recusance, when he was entitled to Malikana. The injunction of the Court of Directors against permanent settlements, referred only to cases in which no one had a right to such immunity; and the Governor General strongly objected to temporary settlements with those who have a claim to permanent arrangements.[d] The engagement for the public revenue in Churs was to be taken from the Zemindar to whose estate they had accrued.[e] If the accretion had occurred to a subordinate tenure, the holder was entitled to it, while he held that tenure, if he paid an increased rent according to his engagements or to the established usages. The under-tenant was to account to his superior for the rent; and his superior, the Zemindar, was to account to Government for the revenue assessed on it. The Collectors were therefore to deal only with the superiors.[f] When the Zemindar was recusant, the settlement was to be made with the under-tenant, or the land was to be held khaus, or farmed.[g] Wherever there was a right of property to these increments to permanently assessed estates, the Zemindar was entitled to a permanent settlement of the revenue on the Chur,

d Cir. Ord. No. 12, April 30, 1833.

e Idem.

f Idem.

g Idem.

Where there was no such right of property, the orders of the Court of Directors against a permanent settlement were to be held applicable.[a]

a Cir. Ord. No. 12, April 30, 1833.

SECTION VII.

Confirmation of Settlements.

All permanent settlements of Land Revenue were declared to require the confirmation of Government.[b] Settlements were to be made by Collectors, or Deputy Collectors, subject to the Revenue Commissioner, the Board, and Government.[c] If the Revenue Commissioner approved of a settlement, he was to refer it to the Board, without passing an order. If desirous of more information, he was to require it, previously to making his report. If he disapproved a settlement, he was to interpose; but except in special cases, his interposition was to be prospective, and was to have effect only from the ensuing season of cultivation. The Collector's settlement was to stand for the current year, except a proprietor applied to engage in lieu of a stranger, or in case of evident fraud.[d] If the Sudder Board approved a settlement, they were to report it to Government, but to pass no order. If they disapproved it, the same rule was to apply as in the case of the Revenue Commissioner, and their interference was to have place only after the current year.[e] But the Revenue Commissioner was at liberty to confirm; 1st. Ryotwar Settlements for a period not exceeding 20 years; 2dly. Temporary settlements of lands to which the proprietor had a right of permanent settlement, and which had been made on his recusancy, for ten years. 3dly. All ordinary temporary settlements for a period not exceeding 20 years. 4thly. All temporary settlements preparatory to a permanent one.[f] Such settlements were subject to a special appeal to the Board by any person aggrieved, and to a special reference on sufficient cause shewn at the instance of the settling officer.[g]

b Rules of Practice. Rule 1.

c Idem, Rule 2.

d Idem, Rule 3.

e Idem, Rule 4.

f Cir. Ord. No. 78, Oct. 27, 1837.

g Idem.

Estates of which the proprietors had formally consented to a perpetual settlement, and had come under engagements accordingly, might be sold for arrears, though the settlement had not been confirmed by Government.[h]

h Idem, No. 40, Oct. 5, 1836.

ADDENDA.

On the 3d of March, 1841, the Board of Revenue directed the Special Deputy Collectors to report for the sanction of the Board, a statement of the rent-free tenures, which it was proposed to relinquish under the 1st Rule passed by the Government of India, on the 14th of October, 1839.[a]—On the 12th of April, the Special Commissioners of the Calcutta and Moorshedabad division directed that the form of affirmation substituted by Act V. of 1840, for the oath, should be used in all Resumption Courts.[b]—In the same month Government dispensed with the copying of Resumption Records in cases appealed to the Special Commissioners, and it was directed that the Commissioners should make such rules from time to time on the subject, as they might deem expedient.[c] This rule was farther explained on the 15th of June, when it was directed that whenever appeals had been admitted by the Special Commissioners, and the original records of the suits were called for, the Resumption Officer was required to copy only the documentary proofs, the copies of which together with the list of the papers should be transcribed, compared and signed, for retention in the office, previous to the transmission of the original record. Replies on the part of Government to the objections or grounds of appeal were declared to be superfluous, and the Special Commissioners were directed not to call for such replies in future, and the Government Agent was requested not to file them. But where new matter of reply was really needed, the Commissioner was at liberty to call on the Government Agent for such information.[d]—In September of the same year, the Commissioners directed that in reference to stamp paper, when any party opposed the claim of Government, alleging that the resumed land formed part of an estate paying rent, the suit should be carried on agreeably to the principles of Reg. IX. 1825, Sect. 5, Cl. 10. and Reg. III. 1828, Sect. 4, Cl. 1.[e]

In January of the present year, Government directed that when the identification of land proved impossible, or so difficult as not to justify the expense, the Special Deputy Collector should be allowed to dismiss the suit, leaving the Revenue Commissioner to appeal if he thought proper.—It was further ordered as a general rule, that when the Lakhrajdar was not forthcoming and there were no Government records to assist in the identification of the land, the proceedings should cease altogether, and that no report should be made to the Commissioner.—Government also declared its satisfaction at the

[a] Cir. Ord. 3d March, 1841.

[b] Idem. 12th April, 1841.

[c] Idem. 31st May, 1841.

[d] Idem. 23d June, 1841.

[e] Idem, 8th Sept. 1841.

working of the 50 biga Order; but stated that if it happened that most of the richer holders escaped, and most of the poor suffered resumption, there would be no objection to consider how this might be amended; and the Board was requested to report with all expedition the actual working of the order in this respect, and also to make such suggestions as might occur to them for rectifying any error.—The Governor of Bengal also directed that the subject of the River Churs should undergo a careful examination; and that the Board should enquire; first, whether to prevent loss to Government by diluvion it be necessary that it should have the power of assessing all alluvion; secondly, if on that or any account it became necessary to assess alluvion as it forms, whether a more prompt and inexpensive and less harassing mode than the present could not be devised and adopted.[a]—On the 25th January, the Governor of Bengal directed the assimilation of Sect. 21 of the Rules of Practice annexed to Reg. III. 1828, to Reg. II. 1819, Sect. 6, Clause 2.[b]

On the 3d of February the Special Commissioners directed the Special Deputy Collectors, in forwarding returns to their precepts or proceedings in pursuance thereof, invariably to insert the number of the appeal on each return or proceeding returned.[c]—On the 4th of February it was ordered by the Special Commissioners that Mooktearnamas executed by those who opposed in the first instance the claim of Government to the revenue of Lakhraj lands should be written on unstamp paper.[d]

Relative to the identification of lands in ordinary Lakhraj cases, the Board proposed in December, 1841, that if the lakhrajdar appeared, produced his title deeds, and admitted his possession of the lands recorded in those deeds, there would seem to be no necessity for local enquiry and identification previous to decision.—If the Lakhrajdar appeared, but had no title deeds and seemed disposed to admit the claim of Government, much caution was necessary, and it would be preferable to institute a local enquiry as to the fact of possession before any decision was given.—If his statement was true, he would point out the lands, and no expense or delay would be incurred.—If it was false, much trouble and expense would be saved by abandoning the suit or instituting it against the party in possession.—In all undefended cases, the Board considered local investigation previous to decision to be absolutely necessary.—The Governor of Bengal decided that the rules proposed by the Board should be adopted, and that the word "identification" should be taken to mean the ascertaining that such a tenure really existed, and who was the actual possessor; but that no measurement or ascertaining of boundaries previous to a decree was necessary.[e]

a Cir. Ord. 4th Jan. 1842.

b Idem, 25th Jan. 1842.

c Idem, 3d Feb. 1842.

d Idem, 4th Feb. 1842.

e Idem, 23d Feb. 1842.

On the 16th of June, the Special Commissioners ordered that all suits to resume or to hold Lakhraj tenures not in excess of 100 bigas within an estate purchased by Government, must be tried by the Collector of the district, with reference to Reg. II. 1819, Sect. 30, and Reg. III. 1828, Sect. 5.[a]—The Commissioners farther ordered in July, 1842, that in all cases originating with the officers of Government for assessing lands held free of rent, stampt paper was not necessary and was not to be used.[b]—On the 16th of September it was farther ruled by the same authorities that "every person who may appoint an agent, shall execute a regular power of attorney in such agent's name, and the execution of such instrument, which may be written on unstampt paper, shall be attested by any functionary, whether European or native, who is or may be empowered by the Regulations of Government to attest powers of attorney generally."[c]

[a] Cir. Ord. 16th June, 1842.

[b] *Idem,* 14th July, 1842.

[c] *Idem,* 16th Sept. 1842.

CHAPTER I.

PRINCIPLES OF RESUMPTION.

SECTION I.

Declaratory Declaration.

By the ancient law of the country, the ruling power is entitled to a certain proportion of the produce of every bigah of Land, unless it transfers its right thereto for a term, or in perpetuity. As a necessary consequence of this law, every Grant or alienation of Government's proportion of the produce of Lands without its sanction, was considered null and void. Had the validity of such Grants or alienations been admitted, it is obvious that the public Revenue would have been liable to gradual diminution.—*Reg.* XXXVII. 1793, *Preamble.*

Lakheraj tenures declared not to be valid, except when granted or confirmed under the sanction of Government.

It is hereby declared and enacted that the power of granting Lakheraj tenures, viz. tenures of land exempt from the public assessment, either for life, or in perpetuity, as well as of confirming such tenures excepting by a regular judgment passed after a judicial enquiry, belongs and always has belonged exclusively to the Supreme Government; and no act, order, or decision, granting or confirming any tenure as aforesaid, within any of the Territories subordinate to this Presidency, after the annexation of such territories to the British dominions, shall be held valid unless the same shall have been done, issued, or passed, by or under the immediate directions of the Governor General in Council; or by some officer expressly authorized by Government to grant or confirm such tenures, or with respect to the confirmation of grants duly authorized, by some competent Court of Judicature in a suit regularly tried and decided by it; or by one of the Revenue Boards acting in a judicial capacity, under the rules of Regulation VIII. 1811, whilst that Regulation (rescinded by Section 2, of Regulation II. 1819,) was in force; and subsequently under the rules of Regulation II. 1819, or any other Regulation expressly empowering the Revenue Boards, after full investigation of Claims to exemp-

Or confirmed by a competent Court of Judicature, in a suit regularly tried and decided, or by a Revenue Board acting under special rules in a Judicial capacity.

tion from Assessment under the general rules applicable to Lakheraj tenures, to pronounce a decision against the Assessment, to be considered final, except on proof in a Court of Judicature, of fraud or collusion in the previous enquiry. Provided also that no resolution or order passed by the Lieutenant Governor, and the Board of Commissioners in the Ceded and Conquered Provinces, the Board of Revenue, or other Authority exercising the powers of that Board, whereby the right of Government to assess any Lakheraj lands may have been relinquished, or postponed, save and except decisions regularly passed according to the rules above cited, shall operate to the prejudice of Government, or be held to bar the Revenue Authorities from proceeding for the recovery of the public dues under the provisions of Regulation II. 1819, or any other rules in force relative to the Resumption of Lakheraj tenures, held under invalid grants.—*Reg.* XIV. 1825, *Sect.* 2.

Right of Government to assess Lakheraj lands not barred by Resolutions or Orders of certain Officers and Authorities, except as above excepted.

SECTION II.

Periods of the acquisition by the British Government of the Territories subject to the Presidency of Fort William.

Specification of the periods at which the several Provinces subordinate to the Presidency of Fort William were acquired by the British Government.

The following shall be held for the purposes specified in this regulation to be the periods at which the several Provinces subordinate to this Presidency were acquired by the British Government, viz. for Bengal, Behar, and Orissa, (excepting Cuttack) the 12th August 1765: for Benares the 1st July 1775; for the Provinces Ceded by the Nuwaub Vizier the 1st January 1801; for the Provinces Ceded by Dowlut Rao Scindia and the Peshwa the 1st January 1803: for the Province of Cuttack, Puttaspore, and its dependencies, the 14th October 1803: for the Pergunnah Khandah and the other territory ceded by Nana Govind Rao, the 1st November 1817.—*Reg.* XIV. 1825. *Sect.* 3, *Cl.* 7.

SECTION III.

Badshahee Grants.

Under the native Government, Grants were occasionally made of the Government's share of the produce of Lands for

the support of the families of persons who had performed public services, for religious or charitable purposes, for maintaining troops, and for other services. The British Government continued to the Grantees or their Heirs, such of these Grants as were hereditary, and were made before the date of the Company's accession to the Dewanny, provided the Grantees or their heirs had obtained possession previous to that date; but those Grants which were for life only, have been invariably considered as resumable on the death of the Grantees. No complete Register of these Grants having been formed on the Company's accession to the Dewanny, nor subsequent to that period, many persons have retained possession of Lands under fabricated or antedated Grants, or have succeeded to life Grants on the demise of the original Grantee, or former possessor, without the sanction of Government. The Governor General in Council deeming it incumbent on him to resume the public dues from Lands held under invalid tenures, as well as the Revenue of all Lands the Grants for which might expire, and as the Proprietors of Estates were not entitled to collect such of the public dues from the Lands included in their Estates, as Government had judged it advisable to transfer to individuals, or to resume those which had been alienated or were appropriated without authority, the amount of the Revenue of the Lands having in both cases been excluded from the assets on which the Settlement was to be concluded, it was made a Rule at the time of forming the Decennial Settlement, and which has been re-enacted by Section 36, Regulation VIII. 1793, that the Jumma assessed upon the Estates of individuals, was to be considered as *exclusive and independent of all existing Lakheraje Lands whether exempted from the Kheraje or public Revenue, with or without due authority*; and by the Third Clause of the Seventh Article of the Proclamation contained in Regulation I. 1793, which specifies the conditions under which Government declared the Decennial Settlement permanent, it is expressly stipulated, *that the Governor General in Council will impose such assessment as he may deem equitable on all Lands at present alienated and paying no public Revenue, which have been or may be proved to be held under illegal or invalid titles.* The Governor General in Council however, at the same time that he is desirous of recovering the public dues from Lands held under invalid tenures, is equally solicitous that persons holding

Lands under Grants that are declared valid, should be secured in the quiet possession and enjoyment of them. With this view, and to obviate all injustice or extortion, in the enquiry into the titles of persons possessing Lands under such Grants, he has resolved that all claims of the public for the resumption of such Grants (provided the Grantees or persons in possession register their Grants as required in this Regulation) shall be tried in the Courts of Judicature that no such Grants may be resumed until the title of the Grantee or present possessor shall have been adjudged invalid by a final judicial decree. Upon the above grounds, and with a view to facilitate the resumption of invalid Grants, as well as to prevent any Grants being hereafter made without the authority of Government, and further that Government and its officers may at all times have in their possession a correct register of the Lands in the several Zillahs, held exempt from the payment of Revenue under Badshahee Grants, the following Rules, containing the Rules passed on the 23rd April, 1788, and subsequent dates with modifications, have been enacted.—*Reg.* XXXVII. 1793, *Preamble.*

The Courts of Judicature and Revenue Authorities shall not recognise any Potentate or authorities save the persons described in this Clause to have been vested with supreme power.

The Courts of Judicature and Revenue Authorities shall not recognise any potentate, or person, as having been vested with the Supreme power within any part of the Provinces subordinate to this Presidency; save and except the Kings of Delhi, the Soobadars of Bengal, Behar and Orissa, and the several Authorities, specified in Regulation XLII. 1795, Regulation XXXVI. 1803, and Regulations VIII. and XII. 1805; and with respect to the Territory Ceded by Nana Govind Rao, save and except Rajah Chuttersaul, and his predecessors, previously to the Mahratta conquest of that territory in the year 1802 of the Sumbut Era (corresponding with 1730, of the Christian Era) and subsequently thereto his Highness the Peshwa, who then obtained the Supreme Authority in the territory referred to. If in any case grants shall be produced, purporting to have been made or confirmed by any other person then as aforesaid, alleged to have been vested with the Supreme power for the time being; and it shall appear to the Court or other Authority investigating the same, that the plea is well founded, the Court or other Authority before whom the case may be depending, shall, before passing any decision thereupon, refer the point to the Governor Ge-

neral in Council, and be guided by his determination.—*Reg.* XIV. 1825, *Sect.* 3, *Cl.* 5.

[BENARES.] Definition of the term Badshahee grant.

The term Badshahee grant shall be construed to extend to all grants made by the Supreme power for the time being; and consequently to include grants of the following descriptions: 1st. royal grants, properly so called; 2dly. grants made by the Soobadars of Oude; and 3dly. grants made by the authority of the British Government.—*Reg.* XLII. 1795, *Sect.* 2. *Cl.* 1.

[CEDED PROVINCES.] Definition of the term Badshahee grant.

The term Badshahee grant shall be construed to extend to all grants made by the Supreme power for the time being, and consequently to include grants of the following description. Firstly, royal grants, properly so called: Secondly, Grants made by the Soobadars of Oude, and by the Nawaubs of Furruckabad: Thirdly, Grants in Rohilcund, made by the princes of that country prior to the 23d of April 1774.—*Reg.* XXXVI. 1803, *Sect.* 2, *Cl.* 1.

[CONQUERED PROVINCES.] Reg. XXXVI. 1803, extended to the zillahs specified in Section 3, with the following modifications.

Regulation XXXVI. 1803, is hereby extended to the zillahs specified in Section 3; [viz. the zillah of Allyghur; the northern division of the district of Seharunpore; the southern division of that district; the zillah of Agra, the zillah of Bundlekund:] with the following modifications.—*Reg.* VIII. 1805, *Sect.* 24, *Cl.* 1.

Definition of Badshahee grants.

Under the definition of Badshahee grants, contained in Clause 1, Section 2, of the Regulation abovementioned; viz. all grants made by the Supreme power for the time being; it is hereby declared, that the following description of grants shall be considered as Badshahee. First, Royal grants properly so called. Secondly, grants made by the Dowlut Rao Scindiah, or his predecessors in authority, in the Conquered Provinces in the Dooab, and on the right bank of the river Jumna. Thirdly, grants made by the Peishwah, or his predecessors, in the territory ceded to the Honourable the English East India Company in Bundlekund.—*Reg.* VIII. 1805, *Sect.* 24, *Cl.* 2.

[CUTTACK.] All the provisions of Regulation XXXVII. 1793, not superseded or modified by this Regulation, declared to be in force in Cuttack.

The following rules containing modifications of the provisions contained in Regulation XXXVII. 1793, respecting lands held exempt from the payment of revenue under badshahee or royal grants, shall be in force in the Zillah of Cuttack, and all the provisions of that Regulation which are not superseded and rendered of no effect by the following rules, shall be considered to be in force in the said Zillah.—*Reg.* XII. 1805, *Sect.* 25.

Description of what the term Badshahee grant is meant to include

The term badshahee grant shall be construed to extend to all grants made by the Supreme Power for the time being, and consequently to include grants of the following descriptions:—First, Royal grants properly so called; Secondly, Grants made by the Soobah of Orissa; and thirdly, Grants made by the Rajahs of Berar.—*Reg.* XII. 1805, *Sect.* 26, *Cl.* 1.

SECTION IV.

Conditions necessary to the validity of Badshahee Grants, made previous to the British Rule.

[BENGAL. BEHAR.] Badshahee grants made previous to the 12th August, 1765, declared valid, provided the Grantee obtained possession before that date and has since held possession.

Altumgah, jaghire, ayma, muddudmaush, or other badshahee grants for holding land exempt from the payment of revenue, made previous to the 12th August 1765, the date of the Company's accession to the dewanny, shall be deemed valid, provided the grantee, actually and bonâ fide, obtained possession of the land so granted previous to that date, and the grant shall not have been subsequently resumed by the officers or the orders of Government. If it shall be proved to the satisfaction of the court, that the grantee did not obtain possession of the land so granted previous to the 12th August 1765, or that he did obtain possession of it prior to that date, but that it has been since resumed by the officers, or the orders of Government, the grant shall not be deemed valid.—*Reg.* XXXVII. 1793, *Sec.* 2. *Cl.* 1.

Courts to refer to the Governor General in Council, in the event of their entertaining doubts as to the authority of any officer of Government who may have resumed Badshahee Grants of land made before the Dewanny.

In the event, however, of a claim being preferred by any person to hold land exempt from the payment of revenue, under a badshahee grant made previous to the date of the Company's accession to the dewanny, and on its being proved to the satisfaction of the court in which the suit may be instituted in the first instance, or to which it may be appealed, that the grantee held the land exempt from the payment of revenue previous to that date, but that it was subjected to the payment of revenue posterior thereto by an officer of Government, and the court shall entertain doubts as to the competency of such officer under the powers vested in him, to resume the grant and subject the lands to the payment of revenue, the court shall suspend its judgement, and report the circumstances to the Governor General in Council, to whom a power is reserved of determining whether such officer was, or was not, competent to

resume the grant, and upon receiving the determination of the Governor General in Council, the court is to decide accordingly. No such claim however to hold exempt from the payment of revenue, land that may have been subjected to the payment of revenue for the twelve years preceding the date on which the claim may be instituted, shall be heard by any Zillah or City court, unless the claimant can show good and sufficient cause for not having preferred the claim to a competent authority within the twelve years, and proceeded in it as required by Section 14, Regulation III. 1793.—*Reg.* XXXVII. 1793, *Sec.* 2, *Cl.* 2.

Claims to hold exempt from revenue under Badshahee grants Lands that have paid revenue for twelve years not to be heard. Exception.

[These two clauses were made applicable to the Province of Benares by Reg. XLII. 1795, Sect. 2, Cl. 2, 3, only that the date was altered from 12th Aug 1765, to 1st July, 1775. They were extended to the Ceded Provinces by Reg. XXXVI. 1803, Sect. 2, Cl. 2, 3, the date being fixed at 1st January, 1801; to the Conquered Provinces by Reg. VIII. 1805, Sect. 24, Cl. 1; the date being fixed at 1st January, 1803; and to Cuttack by Reg. XII. 1805, Sect. 26, Cl. 2, 3, the date being fixed at 14th October, 1803, with this single difference that the latter portion of Section 2, Clause 2, beginning with "No such claim, however, to hold exempt from the payment of revenue, land that may have been subjected to the payment of revenue, for the twelve years preceding the date on which the claim may be instituted, shall be heard by any Court of Dewanny Adawlut, unless the claimant can show good and sufficient cause for not having preferred the claim to a competent authority within the twelve years and proceeded in it, as required by Section 8, Regulation VII. 1795," was omitted in reference to the Ceded and Conquered Provinces and Cuttack.]

To the validity of grants made or confirmed by the Kings of Delhi, or by any of the rulers aforesaid, it is and shall be held to be necessary:

Conditions requisite to establish the validity of grants made by the Kings of Delhi or other of the authorities above specified.

1. That they were made or confirmed within the period, during which the person granting or confirming the same possessed and exercised Supreme power within the territory in which the lands specified in the grant are situate.

2. That the grantee, actually and bonâ fide obtained possession of the land granted within the said period.

3. That the grant was not subsequently resumed by the Officers or the orders of the Government for the time being, previously to the acquisition of the country by the British Go-

vernment, or, if so resumed, that the competency of the Officer to resume shall have been expressly disallowed by the Governor General in Council.—*Reg.* XIV. 1825, *Sec.* 3, *Cl.* 6.

In the case of lands held under Badshahee title, if the possession since 12th August 1765 in Bengal, Behar and Orissa, and since 1791 in Cuttack, be consecutive and uninterrupted, and if the plea for resumption be that the original Grantee did not actually and bonâ fide obtain possession of the lands while the Grantor exercised Supreme power within the Territory, in which the lands are situate, it will be incumbent on the Government Officer conducting the prosecution to prove the affirmative of such plea. In like manner, subsequent non-resumption by a Government Officer being a condition of the validity of Badshahee grants, the Lakherajdar shall not be required to prove this negative by direct evidence, but if such subsequent resumption be alleged as a ground for resumption, the proof of the fact must be exhibited on the part of Government.—*Govt. Orders, Aug.* 17, 1840, *par.* 9.

SECTION V.

Hookamee or non Royal Grants.

By the ancient law of the country, the ruling power is entitled to a certain proportion of the produce of every bigah of land (demandable in money or kind according to local custom) unless it transfers its right thereto for a term, or in perpetuity, or limits the public demand upon the whole of the lands belonging to an individual, leaving him to appropriate to his own use, the difference between the value of such proportion of the produce, and the sum payable to the public, whilst he continues to discharge the latter. As a necessary consequence of this law, if a Zemindar made a grant of any part of his lands to be held exempt from the payment of revenue, it was considered void from being an alienation of the dues of Government without its sanction. Had the validity of such grants been admitted, it is obvious that the revenue of Government would have been liable to gradual diminution. Previous however, to the Company's accession to the dewanny, numerous grants of this description were made, not only by the Zemindars, but by the Officers of Government appointed to the temporary super-

intendence of the collection of the revenue, under the pretext that the produce of the lands was to be applied to religious or charitable uses. Of these grants, some were applied to the purposes for which they were professed to have been made, but in general they were given for the personal advantage of the grantee, or with a view to the clandestine appropriation of the produce to the use of the grantor, or sold to supply his private exigencies. In conformity to the principles which prevailed under the native administration, the British Government have at various times declared all grants for holding land exempt from the payment of revenue made since the date of the Company's accession to the dewanny without their sanction, illegal and void. Their lenity, however, induced them to adopt it as a principle, that grants of this description made previous to the date of the dewanny, and provided the grantees had obtained possession, should be held valid to the extent of the intentions of the grantor, as ascertainable from the terms of the writings by which the grants might have been made, or from their nature and denomination. But no complete register of these exempted lands having been formed upon the Company's accession to the dewanny, nor subsequent to that period, many Zemindars, as well as the temporary farmers of the public revenue, and the officers of Government to whom the collection of the revenue in the different districts has been occasionally committed in consequence of the Zemindars refusing to pay the revenue demanded of them, have availed themselves of the above-mentioned rule of limitation, to make grants of extensive tracts of land to others, or in the names of their relations or dependents for their own use, dating the deeds for these alienations previous to the Company's accession to the dewanny, or procuring them to be registered in the Zemindarry records, as having been alienated prior to that period. Others have made such alineations without antedating the grants, and left it to the grantee to maintain himself in possession by such means as circumstances might afford, in the event of his title being brought into question. The Governor General in Council deeming it incumbent on him to recover the public dues thus alienated in opposition to the ancient and existing laws of the country, as well as to resume the revenue of all lands the grants for which might expire; and as the proprietors of estates were not entitled to collect such of the public dues from the lands included

in their estates, as Government had judged it advisable to transfer to individuals, or to resume those which had been alienated by themselves or others, the amount, in both cases, being excluded from the assets on which the settlement was to be concluded; it was made a rule at the time of forming the decennial settlement, and which has been re-enacted by Section 36, Regulation VIII. 1793, that the jumma assessed upon the estates of individuals, was to be considered as *exclusive and independent of all existing lakheraje lands, whether exempted from the kheraje or public revenue, with or without due authority*; and by the third clause of the seventh article of the proclamation contained in Regulation I. 1793, which specifies the conditions under which Government declared the decennial settlement permanent: it is expressly stipulated, *that the Governor General in Council will impose such assessment as he may deem equitable on all lands at present alienated, and paying no public revenue, which have been or may be proved to be held under illegal or invalid titles.* The Governor General in Council, however, at the same time that he is desirous of recovering the public dues from lands which have been illegally alienated, is equally solicitous that persons holding such grants under titles that are declared valid, should be secured in the possession and enjoyment of their property. It is likewise his wish that the recovery of the dues of Government from those lands which have been illegally alienated previous to the 1st December 1790, should be attended with as little distress as possible to the possessors; and to obviate all injustice, or extortion, in the enquiry into the titles of persons holding exempted lands, he has further resolved that the claims of the public on their lands (provided they register the grants as required in this Regulation) shall be tried in the Courts of Judicature, that no such exempted lands may be subjected to the payment of revenue, until the titles of the proprietor shall have been adjudged invalid by a final judicial decree. Upon the above grounds, and with a view to facilitate the recovery of the public dues from lands held exempted under invalid grants, as well as to prevent any similar alienations being hereafter made, to the prejudice of the security of the public revenue which has been assessed in perpetuity upon the estates of individuals; and further that Government and the officers employed in the collection of the public revenue, may at all times have in their possession a cor-

rect register of the lands in the several Zillahs, held exempt from the payment of revenue, the following rules, containing the rules passed on the 1st December 1790, with modifications, have been enacted.—*Reg.* XIX. 1793. *Preamble.*

Grants of alienated land made previous to the 12th August 1765, declared valid, provided the grantee obtained possession before that date and has since held possession without paying revenue.

All grants for holding land exempt from the payment of revenue, made previous to the 12th August 1765, the date of the Company's accession to the dewanny, by whatever authority, and whether by a writing, or without a writing, shall be deemed valid, provided the grantee, actually and bonâ fide, obtained possession of the land so granted previous to the date abovementioned, and the land shall not have been subsequently rendered subject to the payment of revenue, by the officers, or the orders of Government. If it shall be proved to the satisfaction of the Court, that the grantee did not obtain possession of the land so granted previous to the 12th August 1765, or that he did obtain possession of it prior to that date, but that it has been since subjected to the payment of revenue by the officers, or the orders of Government, the grant shall not be deemed valid.—*Reg.* XIX. 1793, *Sect.* 2, *Cl.* 1.

Grants made before the dewanny of no validity, if possession was not obtained prior thereto, or the lands have been since subjected to the payment of revenue.

The Sudder Board of Revenue have reason to apprehend that owing, probably, to a misunderstanding of Section 2, Regulation XIV. of 1825, some Lakheraj tenures have been adjudged by Special Deputy Collectors to be liable to assessment upon the ground of the want of due authority to create such tenures on the part of the grantor, without due advertence to the provisions of Section 2, Regulation XIX. of 1793, (as far as regards Grants not royal,) as explained by the Preamble of that enactment.

The Board are clearly of opinion that if any tenure not royal, created previously to the 12th August, 1765, have been adjudged liable to assessment by any Special Deputy Collector solely on the ground of want of authority on the part of the Grantor, he should apply to the Special Commissioner for permission to review his decision in the case, with reference to the Section of Regulation XIX. of 1793, above quoted. It will not. of course, be necessary to make this application in cases where the want of authority has been adduced, (though erroneously,) together with other valid reasons, as rendering a tenure liable to assessment.—*Cir. Ord. S. B. R. No.* 76, 1838.

Courts to refer to the Governor General in Coun-

In the event however of a claim being preferred by any person to hold land exempt from the payment of revenue, under

cil, in the event of their entertaining doubts as to the authority of any officer of Government who may have subjected exempted land granted before the dewanny to the payment of revenue.

a grant made previous to the date of the Company's accession to the dewanny, and of it being proved to the satisfaction of the Court in which the suit may be instituted in the first instance, or to which it may be appealed, that the grantee held the land exempt from the payment of revenue previous to that date, but that it was subjected to the payment of revenue posterior thereto by an officer of Government, and the Court shall entertain doubts as to the competency of such officer under the powers vested in him, to subject the lands to the payment of revenue, the Court shall suspend its judgement, and report the circumstances to the Governor General in Council, to whom a power is reserved of determining whether such officer was or was not competent to subject the land to the payment of revenue, and upon receiving the determination of the Governor General in Council, the Court is to decide accordingly. No such claim however to hold exempt from the payment of revenue, land that may have been subjected to the payment of revenue for the twelve years preceding the date on which the claim may be instituted, shall be heard by any Zillah or City Court, unless the claimant can show good and sufficient cause for not having preferred the claim to a competent jurisdiction within the twelve years, and proceeded in it, as required by Section 14, Regulation III. 1793.—*Reg.* XIX. 1793, *Sect.* 2, *Cl.* 2.

Claims to hold exempted from revenue, lands that have paid revenue for twelve years, not to be heard. Exception.

The rules in Sect. 2. were extended to the province of Benares by Reg. XLI. 1795, Sect. 2, Cl. 1, 2.

Corresponding rules were passed for the Ceded Provinces, with this difference, that grants in those provinces made *Twelve* years previously to the occupation of the country by the British Government were to be treated in this manner. The enactments are given below:

[CEDED PROVINCES.]

Grants of alienated land made previous to the 10th of November 1789, declared valid, provided the grantee obtained possession before that date, and has since held possession without paying revenue.

All grants for holding land exempt from the payment of revenue, made previously to the 10th day of November 1789, corresponding with the 15th day of Kautick 1196, Fussily, or the 21st day of Suffer 1204, Higeree, by whatever authority, and whether by a writing, or without a writing, shall be deemed valid, provided that the grantee, actually and bonâ fide, obtained possession of the land so granted, and held it exempt from the payment of revenue, previously to the date abovementioned, and that the land shall not have been subsequently rendered subject to the payment of revenue, by the officers, or the orders, of the Government. If it shall be proved to the satisfaction of the Court, that the grantee did not obtain posses-

Grants made before the date above specified of

sion of the land so granted, or did not hold it exempt from the payment of revenue, previously to the date above specified, or that he did obtain possession of it prior to that date, but that it has been since subjected to the payment of revenue by the officers, or the orders, of Government, the grant shall not be deemed valid.—*Reg.* XXXI. 1803, *Sect.* 2, *Cl.* 1.

no validity, if possession was not obtained prior thereto, or the lands have been since subjected to the payment of revenue.

These rules were made applicable to the Conquered Provinces by the following enactment.

Regulation XXXI. 1803, is hereby extended to the Zillahs specified in Section 3; but, instead of the dates stated in that Regulation, viz. the 10th November 1789, and the first January 1801, the following dates are substituted for the Zillahs aforesaid; viz. the 1st January 1792, or 22d Poose 1199, Fussily, in lieu of the 10th November 1789; and the first January 1803, or 23d Poose 1210, Fussily, in lieu of the 1st January 1801.—*Reg.* VIII. 1805, *Sect.* 21.

[CONQUERED PROVINCES.] Reg. XXXI. 1803, extended to the zillahs specified in Section 3. What dates to be substituted for those specified in that regulation.

The rules for Cuttack correspond with those passed for the Ceded and Conquered Provinces, but they are repeated here, that there may be no error regarding dates.

All grants for holding land exempt from the payment of revenue, made previously to the 14th day of October 1791, corresponding with the 30th Assin 1198 Bengal era, the 3rd Kautick 1199 Fussily, the 30th Assin 1199 Willaity, the 3rd Kautick 1848 Sumbut, and the 15th Suffer 1207 Higeree, by whatever authority, and whether by a writing, or without a writing, shall be deemed valid, provided that the grantee, actually and bonâ fide, obtained possession of the land so granted, and held it exempt from the payment of revenue, previously to the date abovementioned, and that the land shall not have been subsequently rendered subject to the payment of revenue, by the officers, or the orders of the Government. If it shall be proved to the satisfaction of the court, that the grantee did not obtain possession of the land so granted, or did not hold it exempt from the payment of revenue, previously to the date above specified, or that he did obtain possession of it prior to that date, but that it has been since subjected to the payment or revenue by the officers, or the orders of Government, the grant shall not be deemed valid.—*Reg.* XII. 1805, *Sect.* 18, *Cl.* 1.

[CUTTACK.] Grants of alienated land made previous to the 14th October 1791, declared valid, provided the grantee obtained possession before that date, and has since held possession without paying revenue.

Grants made before the above date of no validity if possession was not obtained prior thereto, or if the lands have been since subjected to the payment of revenue.

The Principles by which Hookamee Grants were to be tried are thus summed up in 1825.

Rules for trying the validity of grants made by persons previously to the acquisition of the country by the British Government.

The following principles are to be observed in determining the force and validity of grants made by persons exercising Authority in the Provinces subordinate to this Presidency, previously to the acquisition of the country by the British Government.—*Reg.* XIV. 1825, *Sect.* 3, *Cl.* 1.

Lakheraj tenures of which uninterrupted possession shall have been held exempt from Assessment at and after certain dates, to be held valid.

And in certain cases continued to Heirs.

Lakheraj tenures of which uninterrupted possession shall have been held exempt from assessment at and subsequently to the periods undermentioned, shall be and be considered to be valid, without evidence to any formal grant, or confirmation, of the same; and shall be continued to heirs in cases in which it may be clearly shewn from the nature and denomination of the tenure, that it is hereditary according to the ancient usage of the country: viz. the 12th August 1765, if the tenure be in Bengal, Behar, or Orissa, (excepting Cuttack): the 14th October 1791, if the tenure be in Cuttack including Puttaspore or its dependencies; the 1st July 1775, if the tenure be in the Province of Benares; the 10th November 1789, if the tenure be in the Provinces Ceded by the Nuwaub Vizier in November 1801; the 1st January 1792, if in any of the Provinces Ceded by Dowlut Rao Scindia and the Peshwa under the treaties of the 16th and 30th December 1803; the 1st November 1805, if in the Pergunnah of Khandah or other territory Ceded by Nana Govind Rao on the 1st November 1817. Provided, however, that the above rule shall not apply to cases of derivative tenures, wherein it may appear that the tenure is derived from a Jageerdar or other person, who at any of the periods above specified held lands free of assessment under a temporary or conditional tenure. In all such cases, the parcels of the land so held shall follow the condition of the principal tenure: and if that be resumable, will consequently be liable to resumption.—*Reg.* XIV. 1825, *Sect.* 3, *Cl.* 2.

Proviso in cases of a derivative tenure from a Jageerdar or other person, who held rent free lands under a temporary or conditional tenure.

In such cases parcels of land so held to follow the condition of the principal tenure.

Conditions necessary to the validity of grants not made or confirmed by the Supreme Power.

To the validity of grants not made or confirmed by the Supreme Power, (excepting tenures of long possession, described in the Second Clause of this Section) it shall be held to be necessary;

1st. That they were made or confirmed by some authority which the Governor General in Council shall have expressly declared competent to make or confirm the same.

2d. That the grantee actually and bonâ fide obtained pos-

session of the land granted; and that the revenue of the land was not subsequently resumed by competent authority.—*Reg.* XIV: 1825, *Sect.* 3, *Cl.* 8.

Of Grants made in the Ceded and Conquered Provinces and Cuttack TWELVE *years prior to the acquisition of those provinces by the British Government.*

[CEDED PROVINCES.] Grants made subsequently to the 10th of November 1789, and prior to the 1st January 1801, by whatever authority, to be deemed valid, if confirmed or admitted by the existing Government; provided possession was obtained prior to the date last mentioned, and the land shall not have been rendered subject to the payment of revenue.

All grants for holding land exempt from the payment of revenue which may have been made, subsequently to the 10th day of November 1789, and prior to the 1st day of January 1801, by whatever authority, and which may have been confirmed or expressly admitted antecedently to the 1st day of January 1801, by the authority of the existing Government, shall be deemed valid, provided the grantee, actually and bonâ fide, obtained possession of the land so granted, and held the same exempt from the payment of revenue, previously to the 1st of January 1801, and the land shall not have been afterwards rendered subject to the payment of revenue, by the officers, or the orders, of Government. If it shall be proved, to the satisfaction of the court, that the grantee did not obtain possession of the land so granted, or did not hold it exempt from the payment of revenue, previously to the 1st of January 1801, or that he did obtain possession of it prior to that date, but that it has been since subjected to the payment of revenue by the officers, or the orders, of Government, the grant shall not be deemed valid.—*Reg.* XXXI. 1803, *Sect.* 2, *Cl.* 2.

Courts to refer to the Governor General in Council, in the event of their entertaining doubts as to the authority of any officer of Government, who may have subjected exempted land to the payment of revenue.

In the event of a claim being preferred by any person to hold land exempt from the payment of revenue, under a grant made previously to the 10th day of November 1789, or under a grant made subsequent to that date, but prior to the 1st day of January 1801, and confirmed or admitted by the authority of the existing Government, and of its being proved to the satisfaction of the Court in which the suit may be instituted in the first instance, or to which it may be appealed, that the grantee held the land exempt from the payment of revenue previously to the date specified, but that it was afterwards subjected to the payment of revenue, by an officer of Government, and the Court shall entertain doubts as to the competency of such officer, under the powers vested in him, to subject the land to the payment of revenue, the Court shall suspend its judgement. and report the circumstances to the Governor General in

The Governor General in Council reserves to himself the power of determining in cases of doubt as to the authority of any officer of the Nawaub Vizier who may have made, confirmed, or admitted grants of land exempt from the payment of revenue

In such cases, the Courts will suspend their judgement, and report the circumstances to the Governor General in Council.

Council, to whom a power is reserved of determining, whether such officer was or was not competent to subject the land to the payment of revenue; and upon receiving the determination of the Governor General in Council, the Court is to decide accordingly. In like manner, the Governor General in Council reserves to himself the power of determining, in cases of doubt, whether any officer of the Nawaub Vizier who may have made, confirmed, or admitted grants of land exempt from the payment of revenue, in the name, or on the part of the Nawaub, was competent to exercise such authority. The Courts of Judicature will accordingly suspend their judgement in cases of the above nature, and report the circumstances for the decision of the Governor General in Council.—*Reg.* XXXI. 1803, *Sec.* 2, *Cl.* 3.

[CONQUERED PROVINCES.]

Reg. XXXI. 1803, extended to the zillahs specified in Section 3. What dates to be substituted for those specified in that regulation.

Regulation XXXI. 1803, is hereby extended to the Zillahs specified in Section 3; but, instead of the dates stated in that regulation, viz. the 10th November 1789, and the 1st January 1801, the following dates are substituted for the Zillahs aforesaid; viz. the 1st January 1792, or 22nd Poose 1199 Fussily, in lieu of the 10th November 1789; and the 1st January 1803, or 23d Poose 1210 Fussily, in lieu of the 1st January 1801.—*Reg.* VIII. 1805, *Sect.* 21.

[CUTTACK.]

Grants made subsequent to the 14th October 1791, by whatever authority which may have been confirmed or admitted by the existing government prior to the 14th October 1803, declared valid, provided the grantee obtained possession previous to that date, and held the lands without being subjected to the payment of revenue until the latter date.

Such grants of no validity, if possession was not obtained, or if the lands were subjected to the payment of revenue prior to the 14th October 1803.

All grants for holding land exempt from the payment of revenue, which may have been made subsequently to the 14th day of October 1791, and prior to the 14th day of October 1803, by whatever authority, and which may have been confirmed or expressly admitted, antecedently to the 14th day of October 1803, by the authority of the existing Government, shall be deemed valid, provided the grantee, actually and bonâ fide, obtained possession of the land so granted, and held the same exempt from the payment of revenue, previously to the 14th of October 1803, and the land shall not have been afterwards rendered subject to the payment of revenue, by the officers, or the orders of the late Government. If it shall be proved to the satisfaction of the Court, that the grantee did not obtain possession of the land so granted, or did not hold it exempt from the payment of revenue, previously to the 14th day of October 1803, or that he did obtain possession of it prior to that date, but that it has been since subjected to the payment of revenue by the officers, or the orders of the late Govern-

ment, the grant shall not be deemed valid.—*Reg.* XII. 1805, *Sect.* 18, *Cl.* 2.

[Clause 3, of this Section, corresponds exactly with Clause 3, of Section 2, Regulation XXXI. 1803, as above.]

Certain questions regarding Lakheraj tenures, resumed previously to the acquisition of the country by the British Government, to be decided by the Governor General in Council.

Provided also that in cases in which any Lakheraj tenure may have been resumed previously to the acquisition of the country by the British Government, the determination of the question, whether the Officer, by whom or by whose order the resumption may have been made, was legally competent to do so, shall in all cases, wherein it may be necessary to determine this question, rest with the Governor General in Council. Moreover, all questions, touching the validity of grants made or confirmed by any Officer subordinate to the Supreme power, or the legal effect of resumption by any such Officer, which may not have been expressly provided for by the Regulations, and which may be material to the decision of any suit, or inquiry, shall be referred by the Courts of Judicature, or other authorities, making the investigation, to the Governor General in Council for determination; unless the powers and competence of the Officer in question shall have been previously determined by Government.—*Reg.* XIV. 1825, *Sect.* 3, *Cl.* 9.

Further questions to be referred to the Governor General in Council.

SECTION VI.

Grants and Confirmations of Lakheraj Tenures since the commencement of British rule.

[BENGAL, BEHAR, AND ORISSA.]

All grants made or confirmed since the Dewanny, excepting by the authority of Government, or its officers duly empowered, declared invalid.

All grants for holding land exempt from the payment of revenue, which may have been made since the 12th August 1765, and previous to the 1st December 1790, corresponding with the 18th Aughun 1197, Bengal era, the 10th Aughun 1198, Fussily, the 18th Aughun 1198, Willaity, by any other authority than that of Government, and which may not have been confirmed by Government, or by any officer empowered to confirm them, are declared invalid.—*Reg.* XIX. 1793, *Sect.* 3, *Cl.* 1.

[IDEM.]

Courts how to proceed in the event of their entertaining doubts of the authority of

If doubts shall be entertained by any Court as to the competency of the authority of any officer to confirm any such grant, the Court is to suspend its judgment, and report the circumstances of the case to the Governor General in Council,

the officer to confirm the grant.

to whom a power is reserved of determining finally whether the officer possessed competent authority to confirm the grant, or otherwise; and the Court, upon receiving the determination of the Governor General in Council, shall decide accordingly. —*Reg.* XIX. 1793, *Sect.* 3, *Cl.* 2.

[BENGAL, BEHAR, AND ORISSA.]

Exception to the rule in Clause First, in favor of the grants herein specified made by the chiefs of the provincial councils.

The rule contained in Clause 1st, is not to be considered to extend to authorize the subjecting to the payment of revenue, land held exempt from the payment of it under grants made previous to the commencement of the Bengal year 1178, or the Fussily or Willaity year 1179, (according as the land may be situated in Bengal, Behar or Orissa,) under the signature of the chiefs of the late Provincial Councils, and the seals of those councils, agreeably to an authority vested in them by Government for granting land to be held exempt from the payment of revenue, the annual produce of which did not exceed one hundred rupees.—*Reg.* XIX. 1793, *Sect.* 3, *Cl.* 3.

Grants made or confirmed by the late superintendents of the bazee-zemin-dufter in Bengal, not to be annulled by this Regulation.

No part of this Regulation is to be considered to annul any grants for holding land exempt from the payment of revenue, made or confirmed by the late superintendents of the Bazee-zemin-dufter in Bengal, in virtue of the powers vested in them.—*Reg.* XIX. 1793, *Sect.* 48.

[BENARES.]

All grants made or confirmed since the 1st July 1775, excepting by the authority of Government, or its officers duly empowered, declared invalid.

All grants for holding land exempt from the payment of revenue, which may have been made since the 1st July 1775, and previous to the beginning of the Fussily year 1196, by any other authority than that of Government, and which may not have been confirmed by Government, or by any officer empowered to confirm them, are declared invalid.—*Reg.* XLI. 1795, *Sect.* 3, *Cl.* 1.

[Clause 2 corresponds with Reg. XIX. 1793, Sect. 3, Cl. 2.]

[CEDED PROVINCES.]

All grants made or confirmed since the 1st of January 1801, excepting by the authority of Government, or its officers duly empowered, declared invalid.

All grants for holding land exempt from the payment of revenue, which may have been made since the 1st day of January 1801, corresponding with the 19th Pouse 1207, Bengal era, the 1st Maugh 1208, Fussily, and the 19th Pouse 1208 Willaity, by any other authority than that of the British Government, and which may not have been confirmed by the Governor General in Council, or by an officer empowered to confirm them, are declared invalid.—*Reg.* XXXI. 1803, *Sect.* 3, *Cl.* 1.

[Clause 2 corresponds with Reg. XIX. 1793, Sect. 3, Cl. 2.]

[CONQUERED PROVINCES.]

Regulation XXXI. 1803, is hereby extended to the Zillahs

specified in Section III; but, instead of the dates stated in that* Regulation, viz. the 10th November 1789, and the 1st January 1801, the following dates are substituted for the Zillahs aforesaid, viz. the 1st January 1792, or 22d Pouse 1199, Fussily, in lieu of the 10th November 1789; and the 1st January 1803, or 23d Pouse 1210, Fussily, in lieu of the 1st January 1801.—*Reg.* VIII. 1805, *Sec.* 21.

* Regulation XXXI. 1803, extended to the Zillahs specified in Section 3. What dates to be substituted for those specified in that regulation.

[CUTTACK.] All grants of lands exempt from revenue, made since the 14th October, 1803, and not confirmed by the Governor General in Council, or an officer duly authorized, declared invalid.

All grants for holding land exempt from the payment of revenue, which may have been made since the 14th day of October 1803, corresponding with the 29th Assin 1210 Bengal era, the 14th Kautick 1211 Fussily, the 29th Assin 1211 Willaity; the 14th Kautick 1860 Sumbut, and the 27th Jumadee-us-sany 1218 Higeree, by any other authority than that of the British Government, and which may not have been confirmed by the Governor General in Council, or by an officer empowered to confirm them, are declared invalid.—*Reg.* XII. 1805, *Sect.* 19.

[Section 20 corresponds with Reg. XIX. 1793, Sect. 3, Cl. 2.]

[BENGAL, BEHAR AND ORISSA.] All grants made or confirmed since the Dewanny, excepting by the Authority of Government, or its officers duly empowered, declared invalid.

All Badshahee grants for holding land exempt from the payment of revenue, which may have been made since the 12th August 1765, by any other authority than that of Government, and which may not have been confirmed by Government, or by any officer empowered to confirm them, are declared invalid.—*Reg.* XXXVII. 1793, *Sect.* 3, *Cl.* 1.

[Clause 2, corresponds with Reg. XIX. 1793, Sect. 3, Cl. 2.]

[BENARES.] All grants made or confirmed since the 1st July 1775, excepting by the authority of Government, or its officers duly empowered, declared invalid.

All Badshahee grants for holding land exempt from the payment of revenue, which may have been made since the 1st of July 1775, by any other authority than that of Government, and which may not have been confirmed by Government, or by any officer empowered to confirm them, are declared invalid. But grants of land held exempt from the payment of revenue under grants made by the residents at Benares since the 1st of July 1775, are not to be annulled by the decree of the City or any Zillah Court, but the Judge is to proceed with them, as directed with regard to the grants mentioned in Clause third of this Section.—*Reg.* XLII. 1795, *Sect.* 3, *Cl.* 1.

Exception.

[Clause 2, corresponds with Reg. XIX. 1793, Sect. 3, Cl. 2.]

[CEDED PROVINCES.]

All Badshahee grants for holding land exempt from the pay-

All grants made or confirmed since the 1st January 1801, excepting by the authority of Government, or its officers duly empowered, declared invalid.

ment of revenue, which may have been made since the 1st January 1801, by any other authority than that of the British Government, and which may not have been confirmed by Government, or by any officer empowered to confirm them, are declared invalid.—*Reg.* XXXVI. 1803, *Sect.* 3, *Cl.* 1.

[Clause 2, corresponds with Reg. XIX. 1793, Sect. 3, Cl. 2.]

[CUTTACK.]

All grants made since the 14th October 1803, and not confirmed by Government or an officer duly authorized, declared invalid.

All Badshahee grants for holding land exempt from the payment of revenue, which may have been made since the 14th October 1803, by any other authority than that of the British Government, and which may not have been confirmed by Government, or by an officer empowered to confirm them, are declared invalid.—*Reg.* XII. 1805, *Sect.* 27.

[Section 28 corresponds with Reg. XIX. 1793, Sect. 3, Cl. 2.]

SECTION VII.

Conditions necessary to constitute Badshahee Lakheraj Tenures hereditary.

Persons not being the original grantees, not to be entitled to hold exempt from the payment of revenue.

But no part of the two preceding clauses, is to be construed to empower the Courts to adjudge any person not being the original grantee, entitled to hold land paying revenue to Government, exempt from the payment of revenue, under a Jaghire or other grant made previous to the Company's accession to the dewanny, where the grant may expressly specify it to have been given for the life of the grantee only, or, supposing no such specification to have been made in the grant, or the grant not to be forthcoming, where the grant from the nature and denomination of it shall be proved to be a life tenure only, according to the ancient usages of the country.—*Reg.* XXXVII. 1793, *Sect.* 2, *Cl.* 3.

Nor to entitle the heirs of persons now possessing exempted lands under life grants made previous to the Dewanny to hold such lands exempt from the payment of revenue upon the death of the present possessor.

Nor to entitle the heirs of any person now holding lands exempt from the payment of public revenue under a jaghire, or other badshahee life grant, made previous to the dewanny, to succeed to, and hold such land exempt from the payment of revenue upon the demise of the present possessor, where the grant may expressly specify it to have been given for the life of the grantee only, or, supposing no such specification to have been made in the grant, or the grant not to be forthcoming, where from the nature and denomination of the grant, it shall

be proved to be a life tenure only, according to the ancient usages of the country.—*Reg.* XXXVII. 1793, *Sect.* 2, *Cl.* 4.

The present possessors of such life grants prohibiting from transferring them, or mortgaging the revenue of them beyond their own lives.

The present possessors of lands now exempt from the payment of revenue under such jaghire or other life grants made previous to the dewanny, and declared by the preceding clause not to be hereditary, are prohibited from selling, or otherwise transferring them, or mortgaging the revenue of the lands for a longer period than their own lives, and all such transfers and mortgages which have been or may be made, are declared illegal and void.—*Reg.* XXXVII. 1793, *Sect.* 2. *Cl.* 5.

[Corresponding rules were passed for Benares, Reg. XLII. 1795, Sect. 2, Clauses 4, 5, 6, only that the date was altered to the 1st of July 1775; also for the Ceded Provinces Reg. XXXVI. 1803, Sect. 2. Clauses 4, 5, 6, the date being changed to the 1st of January 1801; for the Conquered Provinces, Reg. VIII. 1805, Sect. 24, the date only being altered to the 1st of January, 1803; and for Cuttack Reg. XII. 1805, Sect. 26, Cl. 4, 5, 6, with the change of the date to the 14th of October 1803.]

SECTION VIII.

Conditions necessary to constitute Hookamee Lakheraj Tenures hereditary.

No persons not being the original grantees, to be entitled to hold exempt from the payment of revenue lands now subject to the payment of revenue, under grants for life made previous to the Dewanny.

But no part of the two preceding clauses is to be construed to empower the Courts to adjudge any person not being the original grantee, entitled to hold exempt from the payment of revenue, land now subject to the payment of revenue, under a grant made previous to the Company's accession to the dewanny, the writing for which may expressly specify it to have been given for the life of the grantee only, or, supposing no such specification to have been made in the writing, or the writing not to be forthcoming, or no writing to have been executed, where the grant from the nature and denomination of it, shall be proved to be a life tenure only, according to the ancient usages of the country.—*Reg.* XIX. 1793, *Sect.* 2, *Cl.* 3.

Nor to entitle the heirs of persons now possessing exemptedlands under life grants made previous to the Dewanny, to hold such lands

Nor to entitle the heirs of any person now holding land exempt from the payment of public revenue under a grant made previous to the dewanny, to succeed to and hold such land exempt from the payment of revenue upon the demise of the present possessor, where the writing for such grant may ex-

exempt from the payment of revenue upon the death of the present possessor.

pressly specify it to have been given for the life of the grantee only, or, supposing no such specification to have been made in the writing, or the writing not to be forthcoming, or no writing to have been executed, where from the nature and denomination of the grant, it shall be proved to be a life tenure only, according to the ancient usages of the country. Nor to entitle the heir to any such person to hold the lands exempt from the payment of revenue after his demise, supposing the writing for the grant not to specify whether it was to be considered hereditary or otherwise, unless it shall be proved to the satisfaction of the Court, that the grant, from the nature and denomination of it, is hereditary according to the ancient usages of the country. But upon the demise of the present possessor of any such grant, which may be adjudged not hereditary under this clause, if it shall appear that one or more successions in virtue of whatever right, shall have taken place before the date of the Dewanny, the lands shall not be subjected to the payment of revenue under the decree, without the sanction of the Governor General in Council, to whom a copy of the proceedings and decree of the Court is to be transmitted, and to whom is reserved a power of declaring the lands subject to the payment of revenue or not, as may appear to him proper.—*Reg.* XIX. 1793, *Sect.* 2, *Cl.* 4.

Power reserved to the Governor General in Council of determining whether life grants, to which one or more successions of whatever nature may have taken place prior to the date of the Dewanny, shall be subjected to the payment of revenue or not. on the death of the present possessor.

The present possessors of such life grants prohibited from transferring them, or mortgaging the revenue of them beyond their own lives.

The present possessors of lands now exempt from the payment of revenue, under such life grants made previous to the dewanny, and declared by the preceding clause not to be hereditary, are prohibited from selling, or otherwise transferring them, or mortgaging the revenue of them for a longer period than their own lives, and all such transfers and mortgages are declared illegal and void. It is to be understood, however, that if any such life grants shall have been confirmed as hereditary tenures by Government, or by the officers of Government empowered so to confirm them, they are not to be liable to the payment of revenue on the death of the present possessor, and are to be excepted from the other rules contained in this and the preceding clause. If doubts shall arise in any Court as to the competency of the authority of any officer of Government to confirm any such life grant as hereditary, the Court is to suspend its judgement, and report the circumstances to the Governor General in Council, to whom a power is reserved of determining finally whether such officer possessed competent

Such life grants if confirmed by Government or its officers, not to be subject to the payment of revenue on the death of the present possessor.

authority to confirm the grant as hereditary or not, and the Court, upon receiving the determination of the Governor General in Council, is to decide accordingly.—*Reg.* XIX. 1793, *Sect.* 2, *Cl.* 5.

[These Rules were extended to Benares by Reg. XLI. 1795, Sect. 2, Cl. 3, 4, 5; and to the Ceded Provinces, by Reg. XXXI. 1803, Sect. 2, Cl. 4, 5, 6, with this difference that the latter portion of Reg. XIX. 1793, Sect. 2, Cl. 5, from "It is to be understood," to the close of the clause was omitted. The Rules for the Conquered Provinces correspond with those for the Ceded Provinces; as so do those which were passed for Cuttack by Reg. XII. 1805, Sect. 18, Cl. 4, 5, 6.]

Lakheraj tenures of which uninterrupted possession shall have been held exempt from assessment at and after certain dates, to be held valid.

And in certain cases continued to Heirs.

Lakheraj tenures, of which uninterrupted possession shall have been held exempt from Assessment at and subsequently to the periods undermentioned, shall be and be considered to be valid, without evidence to any formal grant or confirmation, of the same; and shall be continued to heirs in cases in which it may be clearly shown from the nature and denomination of the tenure, that it is hereditary according to the ancient usage of the country: viz. the 12th August 1765, if the tenure be in Bengal, Behar, and Orissa, (excepting Cuttack): the 14th October 1791, if the tenure be in Cuttack including Puttaspore or its dependencies; the 1st July 1775, if the tenure be in the Province of Benares; the 10th November 1789, if the tenure be in the Provinces Ceded by the Nuwaub Vizier in November 1801; the 1st January 1792, if in any of the Provinces Ceded by Dowlut Rao Scindia and the Peshwa under the treaties of the 16th and 30th December 1803; the 1st November 1805, if in the Pergunnah or Khandah or other territory Ceded by Nana Govindo Rao on the 1st November 1817.

Proviso in cases of a derivative tenure from a Jageerdar or other person, who held rent-free lands under a temporary or conditional tenure.

In such cases parcels of land so held to follow the condition of the principal tenure.

Provided, however, that the above rule shall not apply to cases of derivative tenures, wherein it may appear that the tenure is derived from a Jageerdar or other person, who at any of the periods above specified held lands free of Assessment under a temporary or conditional tenure. In all such cases, the parcels of the land so held shall follow the condition of the principal tenure: and if that be resumable, will consequently be liable to resumption.—*Reg.* XIV. 1825, *Sect.* 3, *Cl.* 2.

The proof of the title to rest with the persons claiming to hold or recover the Lakheraj tenure.

The proof of possession in the cases provided for by the preceding Clause, and (in the case of persons not the original grantees) of the hereditary nature of the tenure, shall be on the parties claiming to hold or recover the Lakheraj tenure:

the general principle being, that the ruling power is entitled to a certain proportion of the produce of every beegha of land, excepting so far as it shall have transferred, relinquished, or compounded its right thereto; and all parties claiming the benefit of such exceptions being bound to establish their respective claims and titles.—*Reg.* XIV. 1825, *Sect.* 3, *Cl.* 3.

One or more successions to any tenure, previous to the periods above specified not to establish a title of inheritance, unless it be of a hereditary nature

Provided also, that although one or more successions to any tenure as aforesaid may have taken place before the periods specified in the Second Clause, the fact shall not be taken to establish a title of inheritance, unless the tenure be clearly of an hereditary nature; or unless the right of inheritance therein shall have been admitted by the Governor General in Council, on a reference made to Government according to the Rules in force applicable to such cases.—*Reg.* XIV. 1825, *Sect.* 3, *Cl.* 4.

Tenures not registered under the Regulations, or of which the specification in the register shall not purport them to be held under hereditary title, or as permanent endowment, shall be held liable to resumption; unless declared hereditary by a final decree of a competent authority.

All tenures, which may not have been duly registered in the manner prescribed by the Regulations, or of which the specification contained in the Register shall not purport the same to be held under hereditary title, or as a perpetual endowment, shall be and be held to have been liable to resumption, unless the same may have been declared hereditary by a final decree of a competent Court of Judicature, on the demise of the persons who were in possession at the dates respectively of Regulations XIX. and XXXVII. 1793, Regulations XLI. and XLII. 1795, Regulations XXXI. and XXXVI. 1803, Regulations VIII. and XII. 1805, according as the lands may be within the districts to which those Regulations are severally applicable, or in other parts of the country at the date at which the same came into the possession of the British Government:

Such lands to be attached and assessed in the same manner as lapsed farms.

And Collectors and other officers exercising the powers of Collector, shall accordingly proceed to assess, and, if necessary, attach all lands liable to resumption as above, in the same manner and with the same powers as they are authorized and required to proceed in the case of a lapsed farm, any thing in the existing Regulations to the contrary notwithstanding.

Nature and extent of the interests vested in the holders of Lakheraj lands how to be determined.

Provided further, that the nature and extent of the interests vested in the holders of lands and rents exempted from assessment shall, when the title deeds are forthcoming, and their authenticity recognized, be construed and defined with reference to the whole of the matter contained in such deeds, and not merely by the designation of the tenure. Jageers consequently shall not be held to be life tenures in cases in which the recital of

the grant shall be such as clearly to convey a hereditary interest: nor shall any tenures, howsoever designated, be considered to be hereditary and perpetual, if the grants under which they are held shall not convey, in express terms, a hereditary or perpetual interest.—*Reg.* III. 1828, *Sect.* 12.

Whenever any land has been held Lakheraj since the 12th August 1765 and the question shall arise whether having been so held, the tenure was originally hereditary, if it be proved, or be ascertained in the course of the investigation, that one or more successions took place before the said date, such succession or successions shall be admitted by the Government prosecutor or agent as conclusive against the claim of Government to deal with the tenure as a grant for lives, liable to resumption upon decease of the incumbent of 1765, and if there be not proof of an actual succession by inheritance before the 12th August, 1765, still, if from the circumstances of the case, there be strong ground of presumption in favor of hereditary possession anterior to that date, the Government officers shall abandon the further prosecution of the claim by lapse, and shall not require proof to the specific conditions of the original grant, in the manner prescribed by a strict interpretation of the existing Law.—*Govt. Ord. Aug.* 17, 1840, *Rule* 5.

Whenever lands may be held under assignment for purposes in themselves permanent and perpetual and their produce continues to be duly applied to those purposes, no benefit shall be taken in the conduct of the prosecution on the part of Government of the provisions contained in Sect. XII. Regulation III. 1828, under which, strictly construed, the grant, though specifying permanent objects, might be deemed to be for life, because of the omission of words declaring perpetuity in the grant.

But if the grant be specific as a charitable provision for one or more persons, and not an endowment for purposes in their nature unlimited as to duration, it shall be construed strictly according to its terms.—*Govt. Ord. Aug.* 17, 1840, *Rule* 6.

Persons in possession of Lakheraj lands in Cuttack from the date of the acquisition of the province consecutively to the present date, shall be allowed to retain possession during their natural lives, and in the prosecution of any claim to try the validity of the grant or title by which lands may have been so held, the demand on the part of Government shall be for an award

of resumption to take effect upon the decease of the incumbent.—*Govt. Ord. Aug.* 17, 1840, *Rule* 7.

No title to hold land Lakheraj shall be brought into question, if otherwise valid as a permanent and perpetual tenure, on the sole ground that it is not duly described as such in the specification of title required to be given in for Registry under the Regulations above cited and referred to.—*Govt. Ord. Aug.* 17, 1840, *Rule* 11.

SECTION IX.

Of Grants not exceeding ten bigas, or appropriated to religious, charitable, or useful purposes.

And also of lands not exceeding ten bigahs granted before the dates herein specified which are appropriated to religious or charitable purposes.

Nor to authorize the subjecting to the payment of revenue, any land, the grants for which, whether for the life of the grantee, or otherwise, were made previous to the commencement of the Bengal year 1178, or the Fussily or Willaity year 1179, (according as the land may be situated in Bengal, Behar, or Orissa,) where the quantity of land granted shall not exceed ten bigas, and the produce of it is bonâ fide appropriated as an endowment on temples, or to the maintenance of Brahmins, or other religious or charitable purposes. The rule in this clause is declared to extend also to all grants of land whatever not exceeding ten bigas, made previous to the dewanny, the produce of which may be now so appropriated.—*Reg.* XIX. 1793, *Sept.* 3, *Cl.* 4.

Explanatory of the Law and the Powers of Deputy Collectors in regard to the Assessment of Petty Rent-free Tenures.

The Sudder Board of Revenue have observed frequent instances, in which officers, engaged in conducting the settlement of Estates, have exceeded their powers in releasing from assessment petty rent-free holdings, not exceeding 10 bigahs, in which the produce is bonâ fide appropriated to religious and charitable purposes, but where the Law does not warrant such release.

Clause 4, Section 3, Regulation XIX. of 1793, clearly defines, that lands of this description are not exempt from assessment, except where the grants were made previous to the year 1178, B. S. or 1179, F. S.

You are requested to transmit a copy of this letter to each Collector and Deputy Collector. Much additional trouble,

and very great and unnecessary delay, is incurred by returning settlements for correction, where irregularities are discovered; and, at the present moment, when the settlement of resumed Muhals is in progress, which fully occupies the time and attention of the Local Officers, it is the more desirable that no unnecessary cause for delay should be incurred either from inattention to the provisions of the Law, or to the forms and instructions now in force.

The Board wish Collectors and Deputy Collectors, engaged in settlements, clearly to understand that they cannot exempt any land from settlement, of their own authority, being less than 10 bigas, and bonâ fide appropriated to religious and charitable purposes, unless the grant was made previous to the year 1178, B. S. or 1179, F. S.; and you will be careful to return every settlement for correction, in which the law has in this manner been contravened.

At the same time, where the settling officer may find any land bonâ fide in the possession of individuals, whether Hindoos or Mussulmen, who are actually the priests, or religious advisers, of the great body of the cultivators, and in which, from either long continued possession, or other cause, they may wish indulgence to be shewn, the aggregate quantity of such land not being disproportionate to the purpose for which it is appropriated, considered with reference to the size and wants of the village, they are at liberty to make a specific recommendation on the subject; and the Board will be prepared, after a perusal of your own sentiments on the point, to recommend the remission of the public demand, as a boon, to the notice of Government in favor of such persons.

Such recommendation is, however, in no way to interfere with the due assessment of such land, or the including of the assessment in the Durkhaust to be given by the parties entitled to engage; since one of the objects contemplated by the Board, is to have settlement papers complete, and to avoid the necessity of returning the settlement for revision, and to enable the Local Commissioner and the Board either to adopt the recommendation, or to modify or reject it as may appear advisable.—*Cir. Ord. S. B. R. No.* 11, *March* 14, 1836.

[These rules of 1793 were extended to Benares, by Reg. 41, 1795, Sect. 3, Cl. 3; to the Ceded Provinces, by Reg. 31, 1803, Sect. 2,

Cl. 7; to the Conquered Provinces, by Reg. 8, 1805, Sect. 21, and to Cuttack, by Reg. 12, 1805, Sect. 18, Cl. 7.]

[CUTTACK.] This Regulation shall not authorize the resumption of lands assigned as endowments of the temple of Juggernath, or similar purposes, provided however that the fixed quit rents of such lands under the grants shall be paid as usual.

Nothing contained in this Regulation shall be construed to authorize the resumption of the rents of any lands assigned under grants from the Rajah of Berar, or from any Zemindar, Talookdar, or any actual proprietor of land in the Zillah of Cuttack as endowments of the temple of Juggernath, or of Mutths in the vicinity of that temple, or for similar purposes: provided, however, that any fixed quit rent which the holders of such lands are bound to pay by the conditions of their grants, shall continue to be paid agreeably to former usage.—*Reg.* XII. 1805, *Sect.* 8.

With reference to Circular Orders of the 14th March, 1836, No. 11, I am directed by the Sudder Board of Revenue to inform you, that, in all cases of temporary settlements which may come before Commissioners for confirmation under Circular Orders of the 27th October, 1837, No. 78, the Right Honourable the Governor has been pleased to vest Commissioners with a discretionary power to exempt from assessment all petty tenures, not exceeding ten bigas, which may be bonâ fide appropriated to religious or charitable purposes, or the proceeds of which may be enjoyed by individuals, whether Mahomedan or Hindoo, who are the priests or religious advisers of the great body of the cultivators.—*Cir. Ord. S. B. R. No.* 11, 14*th March*, 1840.

Officers charged with prosecuting claims against Lakheraj Tenures shall not prefer, or maintain, any suit for lands not exceeding ten bigas, which have been held exempt from the payment of Revenue or Rent without interruption since the 1st December, 1790. Provided that in the districts of Chittagong, Sylhet, and Cuttack, this indulgence shall not extend to such Lands, except where the produce is bonâ fide appropriated as an endowment for temples, or for other religious or charitable purposes, and that in Cuttack the proof of rent free possession without interruption shall not be required in the cases so excepted beyond the 14th October, 1803, the date fixed by Clause 7, Section 18, Regulation XII. 1805.—*Govt. Ord. Aug.* 17, 1840, *Rule* 1.

In all cases where the Sudder Board of Revenue, to whom general reports shall be made in the forms which the Board

may prescribe of claims relinquished under the preceding rule, shall pass orders for the confirmation of such relinquishment, the orders shall be final, and a Certificate in the form to be determined by the Board shall be granted to the holder of the Lands confirmatory of his title, to secure him from all future claims on the part of the resumption officers on account of the Lands in question.—*Govt. Ord. Aug.* 17, 1840, *Rule* 2.

In Estates, wherein the Government have acquired the proprietary right, and which it may be determined by the Revenue Authorities to let in farm, the farmer shall be precluded by an express condition in his engagements from instituting any process for the resumption of Tenures referred to in Rule 1, under the privileges reserved to Zemindars, Talookdars, and other proprietors of Estates with whom a permanent settlement has been concluded.—*Govt. Ord. Aug.* 17, 1840, *Rule* 3.

I am directed by the Sudder Board of Revenue to transmit the accompanying copy of a letter from the Secretary to the Government of Bengal, in the Revenue Department, No. 1310, dated the 20th ultimo, and to request that you will circulate the orders therein contained, to the several Collectors and Special Deputy Collectors, or other officers engaged in the duties of resumption throughout the districts of your division; enjoining their careful attention to the preparation of the Reports desired by the Government.

The orders in question must be considered retrospective; and the Reports required will contain the detail of any cases, of the description referred to, which may have been decided by the Collectors, and Deputy Collectors, antecedently to the receipt of the present instructions, during their incumbency of the offices which they now respectively hold. But it will not be necessary that they should revert to cases decided by them, in a similar capacity, in other districts.

Letter from the Secretary to the Government of Bengal, Revenue Department, to the Secretary, Sudder Board, No. 1310, *dated the* 20*th September* 1836.

Revenue. In continuation of my letter of the 15th of March last, I am directed by the Right Honourable the Governor of Bengal, to request that the Board will instruct the Special Deputy Collectors, and other officers under their jurisdiction, em-

ployed in the enforcement of the resumption laws, to report specially, through their office, to Government, upon every case falling under their cognizance, whether the grant be upheld or resumed, in which lands or money may appear to have been appropriated to purposes connected with education. The Report rendered should be full, embracing all the circumstances of the grant, including of course its present value and the apparent intentions of the grantor, in regard to the disposal of the income accruing, together with whatever information may have been elicited in the course of investigation, respecting the actual disposal of the funds of the endowment by its present administrators.—*Cir. Ord. S. B. R. No.* 54, *Oct.* 28, 1836.

If it shall appear, in the course of the investigation of any case, that the produce of Lands, the revenue of which is claimed for Government (whether the same have been held since 1790 without interruption or not, and whether exceeding in extent ten bigahs or less) has been applied consecutively to religious or charitable purposes, or to objects of general utility, it shall be the duty of the Officer prosecuting on the part of Government the claim to revenue, to report the fact through the prescribed channels for the consideration and orders of the Government.—*Govt. Ord. Aug.* 17, 1840, *Rule* 4.

SECTION X.

Lakheraj Tenures to what extent transferable.

Cases in and rules under which certain grants are to be transferable.

Grants of land, which from the terms of the grant, or the nature of the tenure, are hereditary, and are declared valid by this Regulation, or which have been or may be confirmed by the British Government, or any of its officers, possessing competent authority to confirm them, are declared transferable by gift, sale, or otherwise; and all persons succeeding to such grants by whatever mode, are required to register their names in the office of the Collector, within six months after they may succeed to the grant. But all such purchases are to be considered as made at the risk of the purchaser, and in the event of the grant not proving to be hereditary, or not to have been made or confirmed by the British Government, or its officers possessing competent authority, the transfer is not to preclude

the land from being subjected to the payment of revenue under this Regulation.—*Reg.* XIX. 1793, *Sect.* 20.

Altumgah, ayma, and mudddudmaush grants, are to be considered as hereditary tenures. These and other grants, which from the terms or nature of them may be hereditary, and are declared valid by this Regulation, or which have been or may be confirmed by the British Government, or any of its officers possessing competent authority to confirm them, are declared transferable by gift, sale, or otherwise, and all persons succeeding to such grants by whatever mode, are required to register their names in the office of the Collector, within six months after they may succeed to the grant. But all such purchases are to be considered as made at the risk of the purchaser, and in the event of the grant not proving to be hereditary, or not to have been made or confirmed by the British Government, or its officers possessing competent authority, the transfer is not to preclude the land from being subjected to the payment of revenue under this Regulation. Jaghires are to be considered as life tenures only, and with all other life tenures, are to expire with the life of the grantee, unless otherwise expressed in the grant.—*Reg.* XXXVII. 1793, *Sect.* 15.

Cases in and rules under which certain grants are to be transferable.

Jaghires to be considered as life tenures, unless the grants shall express otherwise.

[These Rules were extended to Benares, by Reg. 41, 1795, Sect. 20; Reg. 42, 1795, Sect. 15; to the Ceded Provinces, by Reg. 31, 1803, Sect. 15; Reg. 36, 1803, Sect. 15; to the Conquered Provinces by Reg. 8, 1805, Sect. 21 and 24; to Cuttack, by Reg. 12, 1805, Sect. 24, 25.]

SECTION XI.

Registration of Grants.

All persons actually holding lands exempt from the payment of public revenue, whether exceeding or under one hundred bigahs, in virtue of grants made previous to the 1st December 1790, and whether made or confirmed by the Government of the country for the time being, or any other authority, shall be allowed one year from the date of the publication prescribed in the following section, to register the required particulars respecting their grants in the office of the Collector of the revenue of the Zillah in which the lands may be situated.—*Reg.* XIX. 1793, *Sect.* 24.

Holders of land exempt from the payment of revenue allowed one year to register them from the time specified in Section 25.

Publication to be made requiring all persons to register their grants.

To prevent any pleas being hereafter urged of ignorance of the rule contained in the preceding section, the Collector of each Zillah upon the receipt of this Regulation, is to cause the following publication, which shall be written in the Bengal and Persian languages in Bengal and Orissa, and in the Persian language and the Hindoostanee language and Nagree character in Behar, and attested with their official seals and signatures, to be fixed up in the principal cutcherry of every proprietor and farmer of land in the Zillah paying revenue immediately to Government, and of every native Collector in lands held khaus by Government; and, where the estate of any proprietor with whom a settlement may have been concluded, or the farm of any farmer, or lands held khaus, shall consist of two or more whole purgunnahs, or portions of purgunnahs, he shall cause the publication to be fixed up in the principal cutcherry in each purgunnah, or portion of a purgunnah comprised in such estate, farm or khaus lands, and take a receipt, specifying the date on which the publication may be fixed up, from such proprietor, farmer, or native officer, who shall respectively be held responsible for the paper remaining so affixed for one year from the date of it.

Publication.

"In conformity to Regulation XIX. 1793, every person being actually in possession of bermooter, beshunpereet, or other land, now exempt from the payment of revenue, in the estate of ——, or the farm of ——, or the khaus lands under the charge of ——, whether exceeding or under one hundred bigas of the measurement of the pergunnah in which the land may be situated, and whether comprising or lying in one village, or two or more villages, and which may be held in virtue of any grant made previous to the 1st December 1790, corresponding with the 18th Aughun 1197 Bengal era, the 10th Aughun 1198 Fussily, the 18th Aughun 1198 Willaity, and whether made or confirmed by the Government of the country for the time being, or its officers, or any other authority, are required to register the following particulars respecting such lands in the office of the Collector of the Zillah, before the expiration of one year from the date of this publication. If any holders of such grants, shall not so register their grants either in person, or by vakeel, with a vukalutnama, attested by two credible witnesses, and given for the express purpose of registering the grant, the lands will be considered liable to the payment

of revenue in the same manner as if they had been adjudged to be so by a final decree of a Court of Judicature. Persons having claims only to hold land exempt from the payment of revenue, but who do not now hold the lands exempt from the payment of revenue, are not to register the land so claimed by them.

Denomination of the grant, whether beshunperect, bermooter, or other tenure.

Name of the grantor.

Name of the original grantee.

Name of the present possessor; and, if he be not the original grantee, his relationship to him, and whether he succeeded to the land hereditarily, or by purchase, or what other mode.

Date of the deed, if the grant be in writing, and if not, the date on which the grant was made.

The name or names of the village or villages comprised in the grant, or in which the land may be situated.

The measurement of each village, or the villages, or the land included in the grant.

The pergunnah or pergunnahs in which the lands may be situated.

A copy of the original grant or other writings under which the land may be held.—*Reg.* XIX. 1793, *Sect.* 25.

Lands not registered within the prescribed time, declared subject to the payment of revenue, unless the Governor General in Council shall admit them upon the register.

If any person in possession of any such grant of land now held exempt from the payment of revenue, shall omit to register it by the time prescribed in the publication, together with as accurate a detail of the particulars thereby required as he may be able to furnish, the land included in the grant, shall by such omission, become subject to the payment of revenue, in the same manner as if it had been adjudged liable to the payment of revenue by a final decree of a Court of Judicature, and the Collector, if the land shall exceed one hundred bigas, shall proceed to assess the lands accordingly; and if it shall be under one hundred bigas, the party to whom the revenue of the land may be payable under Section 6, is empowered to assess the lands as therein directed. The Governor General in Council, however, reserves to himself the power of admitting any grant upon the register after the expiration of the prescribed time, in the event of the possessor of the land showing good and sufficient cause to his satisfac-

tion for not having registered it within the limited period, and the Board of Revenue are to report to the Governor General in Council every case in which persons who may have omitted to register their grants as required, may appear to them entitled to have their grants admitted upon the Register.—*Reg.* XIX. 1793, *Sect.* 26.

Grants not registered within the prescribed period, or admitted by the Governor General in Council, to be considered invalid.

After the expiration of the period limited for registering grants, all grants not registered within the prescribed time, and which may not be subsequently admitted on the register by the Governor General in Council, are declared invalid as far as regards the exemption from the payment of revenue, and the land shall be assessed with revenue as directed in Section 26.—*Reg.* XIX. 1793, *Sect.* 27.

[These Rules were extended to Badshahee Grants in Bengal, by Reg. 37, 1793, Sect. 19, 20, 21, 22; to Hookamee Grants in Benares, by Reg. 41, 1795, Sect. 24, 25, 26, 27; to Badshahee Grants in Benares, by Reg. 42, 1795, Sect. 19, 20, 21, 22.]

Collectors to ascertain whether the publications directed in Section 25, Regulation XIX. and Section 20, Regulation XXXVII. 1793, and similar Sections of Regulation XLI. and XLII. of 1795, have been made, and if not, to cause them to be made allowing one year from the publication for the prescribed registry, after which all unregistered land held exempt from revenue shall be assessed as prescribed in those Regulations.

By Section 26, Regulation XIX. 1793, Section 21, Regulation XXXVII. 1793, and the Corresponding Sections in Regulations XLI. and XLII. 1795, all lands held exempt from the payment of revenue, which the holders may have omitted to register by the time prescribed in the publication therein referred to, are become subject to the payment of revenue, unless sufficient cause be shewn to the satisfaction of the Governor General in Council for their not having been registered within the limited period. It appearing however that the publications directed in Section 25, Regulation XIX. 1793; Section 20, Regulation XXXVII. 1793, and the Corresponding Sections in Regulations XLI. and XLII. 1795, have not in every instance been made as therein directed, (viz. the publication respecting lands held under Badshahee grants, in the principal cutcherry of the holders of such grants; and respecting other exempted lands, in the principal cutcherry of every proprietor and farmer of land paying revenue to Government; and of every native Collector, in lands held khaus by Government; or when the estate, farm or khaus land may consist of two or more whole pergunnahs, or portions of pergunnahs, in the principal cutcherry of each pergunnah or portion of a pergunnah comprised in such estate, farm, or khaus land;) the Collectors are hereby further directed immediately on the re-

ceipt of this Regulation, to ascertain whether the publications above specified have been duly made as prescribed, throughout their respective Collectorships; and, if not, they are to cause the same to be made without delay, in the manner prescribed, as well as in their own cutcherries, and in the cutcherries of the dewanny Courts situated within their respective Zillahs; allowing the further period of one year from the date of such publications, for the registry of the lands therein specified. After the expiration of such period any unregistered land found to be held exempt from the payment of revenue is to be assessed, under the provisions contained in the above Regulations, whenever the same may be discovered; and the Collectors are to enter lands so assessed (together with all other lakhraje lands which may be brought upon the public assessment,) in their succeeding quinquennial register of estates paying revenue, as well as in their register of intermediate mutations.—*Reg.* VIII. 1800, *Sect.* 19.

[These Rules were extended to the Ceded Provinces by Reg. 31, 1803, Sect. 19, 20, 21, 22; Reg. 36, 1803, Sect. 19, 20, 21, 22; to the Conquered Provinces, by Reg. 8, 1805, Sect. 21 and 24; to Cuttack, by Reg. 12, 1805, Sect. 23 and 29.]

Preamble.

Whereas it is enacted in Section 20, Regulation XXXI. and Section 20, Regulation XXXVI. 1803; and in Sections 21 and 24, Regulation VIII. 1805, that publications shall be issued requiring all persons holding lands exempt from the payment of revenue to Government to register the same, on pain, in case of neglect to make such registry, of the lands being declared liable to the payment of revenue to Government; and whereas it has been reported to the Governor General in Council, that the publications abovementioned, have not in many instances been issued according to the prescribed forms, the following rules have been enacted, to be in force from the time of their promulgation in the Ceded and Conquered Provinces in the Dooab, and on the left bank of the river Jumma, and in the territory ceded by his Highness the Peishwah to the British Government in Bundlekhund.—*Preamble to Reg.* VII. 1808.

Collectors to issue publications contained in Regulations XXXI. and XXXVI.

On receipt of this Regulation the Collectors are required to issue the publications directed in Section 20, Regulation XXXI.: Section 20, Regulation XXXVI. 1803, and in Sec-

1803. and in Regulation VIII. 1805.

tions 21 and 24, Regulation VIII. 1805, in the form therein prescribed, requiring all persons holding lands exempt from the payment of revenue to Government, to register such lands within the period of one year from the date of the publications.—*Reg.* VII. 1808, *Sect.* 2.

Lands held free of assessment if omitted to be registered within one year, declared liable to the payment of revenue.

After the term of one year from the date of the publications directed to be issued in the preceding Section, any lands held free of assessment which may have been omitted to be registered, are hereby declared liable to the payment of revenue to Government.—*Reg.* VII. 1808, *Sect.* 3.

Registry of lands not to be considered as an admission of the possessor's proprietary right in the soil, nor of his title to hold the land exempt from the payment of revenue.

It is expressly declared, however, that the registry of grants under this Regulation, is not to be considered as an admission of the right of the person in whose name they may be registered, to the property in the soil, or of his title to hold the lands exempt from the payment of revenue. Any person will be at liberty to sue him in the Dewanny Adawlut for the former, and he will be liable to be sued for the recovery of the latter, by the Collector, with the sanction of the Board of Revenue, in the event of its appearing to that Board, that the lands are liable to the payment of revenue.—*Reg.* XIX. 1793, *Sect.* 28.

[The same Rules were enacted regarding Badshahee grants in Bengal, Behar, and Orissa, by Reg. 37, 1793, Sect. 23; Hookamee and Badshahee grants in Benares by Reg. 41, 1795, Sect. 28, and Reg. 42, 1795, Sect. 23; Hookamee and Badshahee grants in the Ceded Provinces by Reg. 31, 1803, Sect. 23, and Reg. 36, 1803, Sect. 23; Hookamee and Badshahee grants in the Conquered Provinces by Reg. 8, 1805, Sect. 21 and 24; Hookamee and Badshahee grants in Cuttack by Reg. 12, 1805, Sect. 24 and 25.]

SECTION XII.

Register of Lands by the Public Officers.

Register of lands held exempt from the payment of revenue prior to the 1st of December 1790, to be formed every five years.

That Government and its officers, may at all future periods have in their possession, a complete register of the lands throughout the provinces, held exempt from the payment of revenue under grants of the nature of those described in this Regulation, and with a view to prevent any such grants being made in future, a register of all lands, whether exceeding or under one hundred bigahs, held exempt from the payment of

revenue under grants made previous to the 1st December 1790, shall be formed every five years in each Zillah. The register is to specify the denomination of each grant, whether bermooter, bishunpereet, or other tenure; the names of the grantor, the original grantee, and the person in possession, and if the person in possession be not the original grantee, his relationship to him, if any relationship exists, and in virtue of what right he succeeded to the grant; the date of the grant; the names of the village or villages comprised in the grant, or in which the land granted may be situated; the measurement in bigas of the village or villages, or the land included in the grant, and the name of the pergunnah in which the land granted may be situated. The register shall be denominated the "Periodical Register of lands held exempt from the payment of revenue under grants made previous to the 1st December 1790, not being badshahee or royal grants."—*Reg.* XIX. 1793, *Sect.* 22.

Contents of the register.

Denomination of the register.

Upon the receipt of this Regulation, the Board of Revenue are to prepare a form for the periodical register, and transmit a copy of it for the guidance of the Collectors, who are strictly enjoined to adhere to it.—*Reg.* XIX. 1793, *Sect.* 23.

Board of Revenue to prepare a form for the periodical register.

Collectors to adhere to the form.

Upon the expiration of the period for registering the grants in each Zillah, the Collector is to prepare a draft of the register in the form which may be prescribed by the Board of Revenue, and to cause it to be transcribed into a book of such dimensions as they may direct. The book shall have the following inscription on the back of it: "*Periodical Register formed under Regulation* XIX. 1793, *of lands held exempt from the payment of revenue, under grants not Badshahee or royal, made previous to the* 1*st December* 1790, *in the Zillah of* ———, *at the commencement of the year* ——— *Bengal (Fussilly or Willaity) era, corresponding with the year of our Lord* ———. Number ———." Each leaf of the book shall be paged, and be signed by the Judge of the Dewanny Adawlut of the Zillah, and on the last leaf of the book he is to note in his own hand-writing the number of pages in the book, and subscribe the note with his signature, and no register is to be deemed authentic but such as may be entered in a book so paged and attested. The first periodical register is to be numbered one.—*Reg.* XIX. 1793, *Sect.* 29.

Collectors to prepare the registry upon the expiration of the period limited for the registry of the grants.

Inscription on the back of the register.

Book to be paged, and each page to be attested by the Judge of the Zillah.

Judge to specify the number of pages in the book on the last leaf.

The second periodical register is to commence with the year

Second periodi-

cal register to commence with the year 1207, to be numbered two, and the subsequent registers in their order.

1207 of the era current in each Province. This register is to be numbered two, and the periodical registers to be prepared at the commencement of every subsequent five years, in the order in which they may be formed.—*Reg.* XIX. 1793, *Sect.* 30.

Counterpart register in the native languages to be kept by the keepers of the native records.

The keepers of the native records are to keep an exact counterpart of the English periodical register, in a volume of such dimensions as the Board of Revenue may prescribe, and which shall be paged, and be attested by the Judge of the Dewanny Adawlut of the Zillah, in the same manner as the books containing the English registers, and no other counterparts of the registers of grants shall be considered as authentic, but such as may be entered in a book so paged and attested.—*Reg.* XIX. 1793, *Sect.* 31.

In what language the counterpart registers are to be kept.

The counterpart registers in Bengal and Orissa, are to be kept in the Bengal and Persian languages; and in Behar, in the Persian language, and the Hindoostanee language and Nagree Character.—*Reg.* XIX. 1793, *Sect.* 32.

Manner in which resumptions and other occurrences regarding exempted lands in the intervals between the forming of the periodical registers are to be recorded.

For the purpose of recording all resumptions, or other occurrences respecting the lands which form the subject of this Regulation, that may take place during the interval of the five years, between the forming of each periodical register, and the particulars of which will be necessary for forming the second, and all future periodical registers, the Collectors are to prepare a book of such dimensions as the Board of Revenue may prescribe, and which shall be denominated, "*The Register of intermediate resumptions, or other occurrences respecting grants of exempted land not Badshahee,*" and shall have the following inscription on the back, "*Register formed under Reg.* XIX. 1793, *of intermediate resumptions, or other occurrences respecting lands held exempt from the payment of revenue, under grants not Badshahee or royal, made previous to the* 1*st December* 1790, *in the Zillah of*———, *between the commencement of the year* ———, *and the end of the year* ———, *Bengal (Fussily, or Willaity) era.*" Previous to any entries being made in this register, it is to be paged, and the Judge of the Dewanny Adawlut of the Zillah is to sign each leaf of it, and on the last leaf, note in his own hand-writing, the number of pages contained in the book, and attest the note with his signature. The Collector is to cause to be entered in this register, all grants not registered within the time prescribed in the publication in Section XXV. which the Governor General in Council may

order to be admitted upon the register under Section XXVI. all grants of exempted land that may be adjudged or become liable to the payment of revenue; all lands now paying revenue which may be adjudged not subject to the payment of revenue, all old grants of land now subject to the payment of revenue, which the Governor General in Council may judge it proper from particular circumstances to renew; and all exempted lands which may be separated from or annexed to the jurisdiction of the Zillah, with the authority for these several occurrences, and also the particulars for completing the requisite entries in the register of intermediate mutations in landed property paying revenue to Government, in the cases specified in Section XXI. in which entries are directed to be made in that register.—*Reg.* XIX. 1793, *Sect.* 33.

Documents respecting exempted lands to be furnished by Collectors of zillahs from which separations may be made.

When mohauls are ordered to be separated from one Zillah and annexed to another, the Collector of the Zillah from which the separation is to take place, is to transmit to the Collector of the Zillah to which the annexation is to be made, a copy of the entries in the preceding periodical register, as far as they may regard the lands held exempt from the payment of revenue in such mohauls; and also of any entries respecting them in the register of intermediate resumptions which may have taken place subsequent to the forming of the last periodical register.—*Reg.* XIX. 1793, *Sect.* 34.

How such separations and annexations of exempted lands are to be notified to the courts of judicature.

Upon the arrival of the period when the separation is to be carried into effect, the Collector of the Zillah from which the separation may be directed to be made, is to transmit to the Judge of the Dewanny Adawlut of his Zillah, and also to the provincial Court of Appeal of the division, copies of the entries in the last periodical register, and register of intermediate resumptions, which may relate to the grants to be separated from his Zillah, and the Collector to whose Zillah the annexation may be made, is to transmit copies of the abovementioned entries (with which he is directed to be furnished in the preceding Section) to the Judge of the Zillah, and to the Provincial Court of Appeal of the division in which it may be included. Immediately upon the receipt of these papers, the Courts from the jurisdiction of which the separations may be made, are to transmit the papers in the causes depending before them, which in consequence of the separation, may become cognizable in any other provincial Court of Appeal, or Zillah Court,

to such Court, and to cause notification thereof to be communicated to the parties in writing.—*Reg.* XIX. 1793, *Sect.* 35.

Collectors enjoined never to allow the register of intermediate resumptions to fall in arrear.

The Collectors are to attest all entries in the register of intermediate resumptions with their official signatures, and they are strictly enjoined never to allow the register of intermediate resumptions to fall in arrear, but to make the necessary entries immediately upon any resumptions, or other occurrences taking place.—*Reg.* XIX. 1793, *Sect.* 36.

Counterpart of the English register of intermediate resumptions to be kept by the keepers of the native records.

A counterpart of the register of intermediate resumptions, is to be kept by the keepers of the native records in the same form as the English register, and in a book, the leaves of which are in like manner to be paged and attested by the Judge of the Dewanny Adawlut of the Zillah.—*Reg.* XIX. 1793, *Sect.* 37.

How errors in the fair copy of the periodical register, and in the register of intermediate resumptions are to be corrected.

When a periodical register shall have been transcribed fair into the book attested by the Judge of the Zillah, as directed in Section 29, if it shall be discovered that the entries respecting any land are erroneous or incomplete, or that there are any material inaccuracies of the transcriber, the entries are not to be altered or erased, but are to stand, and the Collector is to cause the errors or omissions to be noted in the register of intermediate resumptions, and to attest the entry with his signature, and insert in red ink, opposite to the erroneous or incomplete entry in the periodical register, the number of the page in the register of intermediate resumptions, in which the errors or omissions may be noted, and at the end of the note, specify the number of the page of the periodical register in which the property may be registered. Errors or omissions in the register of intermediate resumptions are to be noted in a similar manner.—*Reg.* XIX. 1793, *Sect.* 38.

Similar rule with regard to errors in the counterpart of the quinquennial register and register of intermediate resumptions in the native languages.

Erroneous or incomplete entries in the counterparts of the registers to be kept by the keepers of the native records, are to be noted by them in the same manner as the Collector is directed to note erroneous entries in the English registers. but the note of every such entry in the counterpart of the register of intermediate resumptions in the country languages, shall, in addition to the attestation of the keepers of the native records, be signed by the Collector.—*Reg.* XIX. 1793, *Sect.* 39.

Persons in possession of disputed grants to be registered as the proprietors.

If the proprietary right in any grant of exempted land, shall be under litigation in a Court of Justice, at the time of forming the first, or any subsequent periodical register, the party in

possession is to be registered as the proprietor.—*Reg.* XIX. 1793, *Sect.* 40.

If a Collector shall have occasion to require from the holder of a grant, any information that may be necessary to enable him to form a periodical register, or to make the requisite entries in the register of intermediate resumptions, and such person shall omit to furnish it by the time required, after having been served by the Collector with a written requisition for that purpose under his official seal and signature, the Collector is to report the circumstances to the Board of Revenue, who are empowered to impose on such person whatever daily fine may appear to them proper on a consideration of his situation and circumstances in life and of the case, until he shall furnish the information required, unless he shall prove to the satisfaction of the Board, that it was not in his power to furnish it. The Collector is to levy the amount of such fines by the process to which he is authorized to have recourse for the recovery of arrears of revenue. The Board of Revenue are to furnish the Collectors in the several Zillahs with such records or information as they may possess regarding the exempted lands in their respective Zillahs, as well to assist them in preparing the first periodical register, and in detecting frauds that may be attempted to be practised upon them in registering the grants, as to aid them in ascertaining what lands now held exempt from the payment of Revenue, are liable to the payment of revenue under this regulation.—*Reg.* XIX. 1793, *Sect.* 41.

Holders of grants liable to be fined for omitting to furnish any information that may be required by the collectors for preparing the registers.

Board of Revenue to furnish the collectors with all papers and information they may possess regarding the exempted lands in their respective Zillahs.

The Collectors of the several Zillahs are to transmit as early as may be practicable, to the Board of Revenue, an attested copy of the periodical registers both in the English and the native languages, each in a book of the prescribed size, paged and attested by the Judge of the Dewanny Adawlut of the Zillah, in the same manner as the original register, as directed in Section 29; and within one month after the expiration of the third, sixth, ninth, and twelfth months of the Bengal, Fussily, and Willaity year (according to the era current in their respective districts), an attested copy of the entries in the register of intermediate resumptions that may have taken place during the three preceding months. The Collector of each Zillah is to transmit a similar copy of the periodical register, and of the quarterly entries in the register of intermediate re-

To whom the collectors are to send copies of each periodical register, and of the quarterly entries in the register of intermediate resumptions.

sumptions to the Judge of the Dewanny Adawlut of the Zillah, and to the provincial Court of Appeal, in the jurisdiction of which the Zillah may be included. The Board of Revenue are to furnish the Sudder Dewanny Adawlut with an attested copy of the periodical registers of each Zillah, and of the quarterly entries in the registers of intermediate resumptions, as soon as they may receive them from the Collectors.—*Reg.* XIX. 1793, *Sect.* 42.

Courts, the board of revenue, and the collectors, to be careful to preserve the old periodical registers and registers of intermediate resumptions.

The Courts of Judicature, the Board of Revenue, and the Collectors, are enjoined to be particularly attentive to the preservation of the periodical registers and registers of intermediate resumptions, both in the English and native languages; and they are directed to have the fair copies of each, which are to be deposited amongst the public records, bound up with such materials as may be best calculated to prevent their being destroyed by insects, or otherwise.—*Reg.* XIX. 1793, *Sect.* 43.

From what materials the periodical register commencing with 1207, and subsequent registers are to be formed.

The periodical register which is to be formed in each of the Zillahs in Bengal, Behar, and Orissa, at the commencement of the Bengal, Fussily, and Willaity year 1207, and at the commencement of every succeeding five years, is to be prepared from the preceding periodical register, and the entries in the subsequent register of intermediate resumptions, with the omission of any grants of land that may have been subjected to the payment of revenue during the preceding five years, or that may have been transferred to the jurisdiction of another Zillah, and with the addition of any such grants of land that may have been annexed to the Zillah, or that may have been adjudged not subject to the payment of revenue, or that may have been admitted upon the register by the Governor General in Council under Section 26. The materials for each periodical register will thus be ready upon the arrival of the period for preparing it, and the register will be completed by the mere transcript of them into the book, arranged according to the prescribed form.—*Reg.* XIX. 1793, *Sect.* 44.

Penalty for native officers receiving money or property on account of the registry of grants.

If it shall be proved to the satisfaction of the Judge of the Dewanny Adawlut of any Zillah, that a native officer of a Collector, or of an assistant to a Collector, shall have received directly or indirectly, any sum of money, or effects, or other property, from any person for registering a grant under this Regulation, or on account of any matter relating to the registry thereof, the Court shall adjudge him dismissed from his

office, and compel him to repay the money proved to have been taken, with a fine of three times the amount to Government, and costs to the party suing him, and commit him to prison until he shall have discharged the amount of the decree, or it shall have been made good by the sale of his property.—*Reg.* XIX. 1793, *Sect.* 45.

Penalty for private servants or dependants of a collector, or of an assistant to a collector, convicted of the offence specified in the preceding section.

If any native servant, or dependent of a Collector, or of an assistant to a Collector, not being a public officer, shall be convicted before the Court of Dewanny Adawlut, of the offence specified in the preceding Section, he shall be compelled to restore the money to the person from whom it may have been taken, and to pay a fine of three times the amount to Government, with costs to the party suing, and be confined for six months; and if he shall not discharge the amount of the decree by the expiration of the sixth month, he shall be confined until he makes good the amount, or it shall be realized from the sale of his property; and the Collector, or assistant, is to discharge such servant, and never to employ him in his public or private capacity.—*Reg.* XIX. 1793, *Sect.* 46.

Record of lands specified in Section VII adjudged liable to the payment of revenue, where to be made.

When land of the description specified in Section 7, shall be finally adjudged liable to the payment of revenue, the name or names of the village or villages, or land included in the grant, and the measurement thereof, the pergunnah in which the land granted may be situated, the amount of the public revenue payable therefrom, the name or names of the proprietor or proprietors, and a copy of the decree, are to be entered in the register of intermediate resumptions, directed to be kept by Section XXXIII. and opposite to such entry the Collector is to insert in red ink, the number of the page in the periodical register directed to be kept by Section XXII. in which the lands may stand recorded, and in the periodical register, he is to specify in red ink, the number of the page in the register of intermediate resumptions, in which the decree, adjudging the land subject to the payment of revenue, and the other entries above specified, may be inserted. These entries in the register of intermediate resumptions, are likewise to be inserted in the register of intermediate mutations in landed property, paying revenue to Government, directed to be kept by Section 16, Regulation XLVIII. 1793, in order that the land may be recorded in its proper place, as an estate paying revenue to Government, in the next quinquennial register which may be

formed agreeably to the abovementioned Regulation. The Collector is to insert in red ink, opposite to the entries relating to such lands in the periodical register and the register of intermediate resumptions, the number of the page in the register of intermediate mutations, in which the above required entries may be made, and he is also to specify in red ink opposite to such entries in the register of intermediate mutations, the number of the page in the periodical register, and the register of intermediate resumptions, in which the entries respecting the lands may be inserted.—*Reg.* XIX. 1793, *Sect.* 21, *Cl.* 1.

Record of lands specified in Section VI. adjudged liable to the payment of revenue where to be made.

When land of the description specified in Section 6, shall be finally adjudged liable to the payment of revenue, *the measurement of the land*, the name of the pergunnah in which it may be situated, *the jumma payable therefrom*, the name or names of the proprietor or proprietors, and a copy of the decree, are to be entered in the register of intermediate resumptions, and opposite to such entry, the Collector is to insert in red ink, the number of the page in the periodical register in which the lands may stand recorded; and in the periodical register, he is to insert in red ink, the number of the page in the register of intermediate resumptions, in which the decree adjudging the land subject to the payment of revenue, and the other entries above specified, may be inserted. The lands mentioned in this Section not being liable to the payment of revenue to Government, no entry respecting them is to be made in the register of intermediate mutations, or the quinquennial register directed to be kept by Regulation XLVIII. 1793.—*Reg.* XIX. 1793, *Sect.* 21, *Cl.* 2.

Record of land now subject to the payment of revenue, but which may be hereafter adjudged exempt from the payment of revenue where to be made.

When land now subject to the payment of revenue shall be finally adjudged to be exempt from the payment of revenue, *the name or names of the village or villages, or land which may be so exempted, the measurement thereof*, the pergunnah in which it may be situated, the name or names of the proprietor or proprietors, *the amount of the Jumma*, and a copy of the decree, are to be entered in the register of intermediate mutations, and the Collector is to insert in red ink, opposite to such entry, the number of the page in the last formed quinquennial register, in which such village or villages, or the village or villages in which the lands may be situated may be recorded, that the lands included in the grant may be omitted in the

quinquennial register which may be next formed, and also the number of the page in the register of intermediate resumptions, in which such entries are also to be recorded, that they may be inserted in their proper place in the periodical register of land held exempt from the payment of revenue, and the Collector shall insert in red ink opposite to such entries, the number of the page in the register of intermediate mutations, from which they may have been taken. The rules in this clause are to be observed likewise, in case the Governor General in Council should deem it proper, from particular circumstances, to renew any former grants, the land included in which may be now subject to the payment of revenue.—*Reg.* XIX. 1793, *Sect.* 21, *Cl.* 3.

Rule to apply to old grants renewed by government.

[These Rules were extended to Bengal, Royal Grants, by Reg. 37, 1793, Sect. 17, 18, 24 to 41; to Benares, non Royal Grants, by Reg. 41, 1795, Sect. 22, 23, 29 to 46; to Benares, Royal Grants, by Reg. 42, 1795, Sect. 17, 18, 24 to 41.]

They are modified by the following enactments:

Certain parts of Regulations XIX. XXXVII. and XLVIII. of 1793, and XIX. XLI. and XLII. of 1795, respecting the specification of names of villages or other subdivisions rescinded, and the names of purgunnahs and number of villages, &c. only to be inserted in the registers in future.

A reference to the pergunnah register, when duly prepared according to the preceding sections, will at all times enable the officers of Government to ascertain the several villages, portions of villages, or other subdivisions of any estate included in the register of estates paying revenue to Government, or of any Lakhiraje tenure included in the register of lands exempt from the payment of revenue, provided that each pergunnah (or other local division where there may be no pergunnah) in which any part of such estates or tenures may be situated, be specified in the said registers, with the number only of the villages, or other subdivisions in each pergunnah. Such parts therefore of Regulations XIX. XXXVII. and XLVIII. 1793, and Regulations XIX. XLI. and XLII. 1795, as require a specification of the names of villages or other subdivisions in the registers thereby prescribed, in addition to the names of the pergunnahs comprising such villages or other sub-divisions, are hereby rescinded, and in the registers prescribed by the above regulations to commence with the current Bengal, Fussily and Willaity year 1207, as well as in all future registers, whether the general register of estates paying revenue, or of lands exempt from revenue, directed to be prepared at the expiration of every five years, or the inter-

mediate registers of mutations, resumptions and other occurrences, it is required only to specify the pergunnahs (or other local divisions where there may be no pergunnahs) in which any part of the estates and tenures included in the registers may be situated, with the exact number of villages, or other sub-divisions appertaining to the estate or tenure, in each pergunnah register. The Collectors are enjoined to take the utmost care that the names of the pergunnahs (or other local divisions where there may be no pergunnahs) as well as the number of villages or other sub-divisions stated to be in each, are exactly conformable to the pergunnah register; and are to furnish their native officers appointed to prepare the counterpart registers, with particular instructions for this purpose. The mode of correcting any mistakes in registers prescribed by the abovementioned Regulations has been provided for in them; and if any should occur in the pergunnah register, they are to be rectified in the same manner, in the intermediate register prescribed by Section 5, of this Regulation.—*Reg.* VIII. 1800, *Sect.* 11.

Collectors to be careful that the names, &c. are conformable to the pergunnah register.

How mistakes in the pergunnah registers are to be rectified.

Further parts of the above regulations, respecting the insertion of the measurement and rents of land, rescinded.

A reference to the pergunnah register will also show the measurement and rents of land whenever the same may have been ascertained, and enable the Collectors to furnish this information to the Board of Revenue for public sales of land, or otherwise, when required. It will therefore be no longer necessary to include either of these items, viz. the measurement, or rents of land, in the registers of estates, or of exempted lands prescribed by Regulations XIX. XXXVII. and XLVIII. 1793; or Regulations XIX. XLI. and XLII. 1795; and such parts of those Regulations as require the same to be inserted in the registers therein specified, are hereby rescinded.—*Reg.* VIII. 1800, *Sect.* 12.

Such parts of Regulations XIX. XXXVII. and XLVIII. of 1793, and XIX. XLI. and XLII. of 1795, as direct counterparts of the registers to be kept in the Bengal and Hindoostanee languages, and copies to be furnished to the courts of justice, rescinded; and

Such parts of Regulations XIX. XXXVII. and XLVIII. 1793, and Regulations XIX. XLI. and XLII. 1795, as direct counterparts of the several registers therein specified to be kept in the Bengal and Hindoostanee languages, is hereby rescinded; and in future it is required only that an exact counterpart of the several English registers be kept in the Persian language, to be prepared and authenticated as directed in the regulations abovementioned. Such parts of those regulations as direct the Collectors of the several Zillahs to furnish copies of the prescribed registers to the Judges of the Dewanny Adawluts of their respective Zillahs, and to the pro-

vincial Courts of Appeal, in the jurisdiction of which their respective Zillahs are included, or which require the Board of Revenue to furnish the Sudder Dewanny Adawlut with a copy of the prescribed registers for each Zillah, are likewise hereby rescinded; and instead thereof, the Zillah and City Courts of Dewanny Adawlut and Provincial Courts of Appeal are authorized, whenever they may have occasion to refer to any of the registers prescribed by the above regulations or by the present regulation, to require from the Collectors the production of the original register, or an attested copy of such part thereof as may contain the required information. The Collectors, on the receipt of such requisition, are immediately to transmit the original register, if it can be sent without inconvenience, under the care of one of their native officers, in whose custody it is to remain till returned: or if the original register cannot be conveniently sent, are to transmit without delay an accurate copy of such part thereof as may be required, under the attestation of their official signature. In like manner the Board of Revenue, on the requisition of the Court of Sudder Dewanny Adawlut, are to furnish any Zillah register received by them which may be required by that Court; or a copy, attested by the signature of their Secretary, or Accountant, of any part thereof which may be required. In the event of any register required by a Court of Justice not having been prepared, and the period fixed for its preparation having elapsed, the Collector is to explain to the Court the cause of such register not having been prepared, and the explanation so given is to be transmitted by the Court receiving it to the Governor General in Council. Any person succeeding to the office of Collector, or invested with the temporary charge of such office, is also required, immediately on his taking charge, to ascertain whether the prescribed registers have been duly prepared; and if not, to report the same to the Board of Revenue, with any explanation he may have received of the omission for the information of the Governor General in Council.—*Reg.* VIII. 1800, *Sect.* 15.

How the Courts are to proceed whenever they have occasion to refer to any of the registers.

Courts to report to Government the explanations given by collectors for not having the registers completed within the prescribed periods.

Collectors or acting collectors on taking charge, to ascertain whether the registers have been duly prepared, and if not, to report the same to the board of revenue for the information of government.

The copies of the several registers which the Collectors of Bengal, Behar, and Orissa, by Section 22, Regulation XIX. Section 37, Regulation XXXVII. and Section 26, Regulation XLVIII. 1793; and the Collector of Benares, by Section 24, Regulation XIX. Section 42, Regulation XLI. and Section

The copies directed by the abovementioned regulations to be sent to the board of revenue, shall be sent to their accountant, who is

to examine, and in certain cases, report thereon.

37, Regulation XLII. 1795, are required to furnish to the Board of Revenue, shall be transmitted by the Collectors at the periods therein specified, in the English and Persian languages, to the Accountant of the Board of Revenue, who is to report to the Board any instances of the prescribed quarterly copies not having been received at the fixed periods; or of the quinquennial copies not having been received within the year at the commencement of which the quinquennial registers are directed to be prepared; and is to return to the Collectors for correction any copies of registers received from them which may not have been prepared according to the prescribed form. The Accountant is also to compare the assessment stated in the registers of estates paying revenue, with the accounts of the permanent settlement deposited in his office, as well as with any accounts or information which may from time to time be communicated to him by the Board of Revenue of any authorized alterations in the assessment, whether from allotments of the fixed assessment upon divisions of estates, or from any increase or decrease of assessment from whatever cause; and the Secretary to the Board of Revenue is to be careful that the Accountant is regularly informed of all such alterations which may be authorized. When the Collector may have omitted only to quote the authority for such alterations in his register of intermediate mutations, the copy of the register is to be returned to him by the Accountant to supply the omission; but if in any case it shall appear to the Accountant that the Collector has stated any alteration in the assessment of an estate without due authority, he is to report the same to the Board of Revenue, with any explanation given by the Collectors, for such orders as may be necessary; or for the determination of the Governor General in Council.—*Reg.* VIII. 1800, *Sect.* 16.

Collectors shall form pergunnah registers of all lands in their respective districts.

The Collector of Benares and the Collectors of the several Zillahs in Bengal, Behar and Orissa, on receipt of this regulation, shall proceed to form a register of all the lands in their respective districts, of whatever description, to be denominated "PERGUNNAH REGISTER of lands, malgoozary and lakheraje;" and to be prepared as hereafter directed.—*Reg.* VIII. 1800, *Sect.* 2.

The register shall contain distinct head for

The register shall contain a distinct head for each pergunnah; or where no pergunnah division may have been establish-

ed, for such local division as may have been established instead of a pergunnah; whether a tuppah, turruf, or of whatever other known denomination; but wherever the pergunnah division may exist, the lands within such division shall be registered under the head of the pergunnah.—*Reg.* VIII. 1800, *Sect.* 3, *Cl.* 1.

each pergunnah, or such other local division of lands as may have been established.

The register of each pergunnah (or other local division where there may be no pergunnah) shall be divided into two parts, the one for malgoozary lands, or lands assessed for the public revenue; the other for lakheraj lands, or lands exempted from the public assessment.—*Reg.* VIII. 1800, *Sect.* 3, *Cl.* 2.

The register of each division shall be divided into two parts, for malgoozarry and lakheraje lands.

The lakheraje part of the purgunnah register shall comprize the following particulars of all lands within the purgunnah not paying revenue to Government, to be specified distinctly for each lakheraje tenure situated therein.

What particulars the lakheraje part of the register shall contain.

1. Denomination of the tenure as entered in the register of lands held exempt from the payment of revenue to Government prescribed by Regulations XIX. and XXXVII. 1793, XLI. and XLII. 1795, with a reference to the number under which the tenure may have been entered in such register.

2. Name of the holder or holders of the tenure, as also entered in the register of exempted lands prescribed by the above Regulations.

3. A detailed statement of the several villages, portions of villages, or other sub-divisions of each tenure within the pergunnah, with an accurate enumeration of them for the purpose of being referred to in the register of exempted lands, as provided in Section 11, of this Regulation.

4. The ruckbah, or measurement of each village or other subdivision, wherever the same may have been reported by the holders of lakheraje tenures under the requisitions contained in the regulations above mentioned, or may be otherwise ascertainable.

5. The gross rents of any village or other sub-division, the gross produce of which may have been ascertained.—*Reg.* VIII. 1800, *Sect.* 3, *Cl.* 4.

The first General Purgunnah Register shall be prepared for the current Bengal, Fussily, and Willaity year 1207, in the districts wherein these eras are current respectively; and shall exhibit the required particulars respecting the malgoo-

At what periods the general pergunnah registers are to be prepared and how to be numbered.

zarry and lakheraje lands in the several pergunnahs, as they stood at the commencement of that year, of each era, so as to correspond with the quinquennial register of estates paying revenue to Government No. 3, and the periodical registers of lands held exempt from the payment of revenue No. 2, which by the regulations above referred to are ordered to commence with the year 1207 of the era current in each province. This original pergunnah register is to be numbered *one.* A similar general register is to be prepared at the commencement of the Bengal, Fussily, and Willaity year 1212, to be numbered *two;* and thereafter at the commencement of every fifth succeeding year, to be numbered in the order in which it may be formed.—*Reg.* VIII. 1800, *Sect.* 4.

Intermediate pergunnah registers shall be kept for recording all alterations between the periods prescribed for forming the general registers.

For the purpose of recording any alterations in the particulars required to be entered in the quinquennial pergunnah registers, which may take place during the interval of five years, the period prescribed for the formation of them, an intermediate pergunnah register shall be kept under the same heads as directed for the general registers, in which all pergunnah annexations or separations, all divisions or transfers of estates, all new information obtained respecting the measurement or rents of land, all resumptions of Lakheraje exemptions, and generally all alterations in any of the particulars required to be entered in the pergunnah register of lands, malgoozarry and lakheraje, shall be duly recorded, as soon as possible after such alterations may have taken place; with a note of reference to such parts of the last formed quinquennial register as may be affected thereby. Provided however, with respect to all transfers or divisions of estates in which an allotment of the public assessment may be necessary, under the rules prescribed in Section 10, Regulation I. 1793, or any other regulation, that no such transfer or division shall be registered until the assessment has been allotted as required by the regulations; nor shall any entry in the pergunnah register be considered to effect the rights of Government, either with regard to lands assessed with the public revenue, or the lands held exempt from such assessment.—*Reg.* VIII. 1800, *Sect.* 5.

Provision respecting cases wherein an allotment of the assessment may be necessary.

No entry in the register shall effect the rights of Government.

The board of revenue are to furnish the Collectors with forms of the registers. In what language and by

The Board of Revenue are to furnish the Collectors of the several Zillahs with a form for the pergunnah register required by this regulation, which is to be kept in the Persian language, by the keepers of the native records appointed under Regula-

tion XXI. 1793, (extended to Benares by Regulation XXXVII. 1795,) with the assistance of such other native officers as may be appointed for this purpose. But the Collectors are to attest every page of the register prepared by them after ascertaining that it is accurate, and are to cause the quinquennial register to be bound up as soon as completed, in a volume or volumes of uniform dimensions, each leaf of which having been previously paged, is to be signed by the Zillah Judge (or by the City Judge in the province of Benares) with a specification on the last leaf of each volume, of the total number of pages contained in it, in the hand-writing of the Judge, as prescribed by the existing regulations with respect to the other registers thereby required. The intermediate register is also to be bound up, paged and attested at the end of every Bengal, Fussily, or Willaity year, in the same manner as above directed with regard to the quinquennial register; and the Collectors are enjoined to be careful that the intermediate register is at no time allowed to fall in arrear.—*Reg.* VIII. 1800, *Sect.* 6.

whom the registers are to be kept and how to be attested.

The pergunnah register to commence with the current year, is to be prepared from the papers which have been already furnished by the proprietors and farmers of lands paying revenue or by the holders of land exempt from the payment of revenue, for the registers of these lands respectively, required to be kept by Regulations XIX. XXXVII. and XLVIII. 1793, and Regulations XIX. XLI. and XLII. 1795; as well as from any other materials which may have been procured for the quinquennial registers of estates paying revenue and the periodical registers of exempted lands, directed to be prepared at the commencement of the current Bengal, Fussily and Willaity year 1207. Should any further papers or information be found requisite for the exact ascertainment of portions of estates situated within different pergunnahs, or the precise number and names of villages appertaining to the several estates in each pergunnah; or for the purpose of ascertaining any of the particulars to be specified under the three first heads of the malgoozary part of the pergunnah register, or the four first heads of the lakheraje part of the register, as stated in the third and fourth clauses of Section 3 of this regulation, the Collectors are authorized to require the same from the proprietors, farmers, and undertenants of malgoozarry lands, or from the holders of lakheraje lands, in the same manner as they are

From what materials the general registers are to be prepared, and how the materials, not already received, are to be procured.

authorised by the regulations above mentioned to require from such persons any information that may be necessary to enable them to form the registers therein prescribed; and under the same penalties from con-compliance. But the Collectors are not to require from the proprietors or farmers of malgoozarry lands, or from their undertenants, any papers or information respecting the measurement or rents of such lands; nor from the holders of lakheraje lands any papers or information respecting the rents of lands of this description for the purpose of entering the same in the pergunnah register; it being intended only that the measurement and rents of malgoozarry lands, and the rents of lakheraje lands, should be entered in the register, when the same may be ascertained by public measurements, khaus collections, attachments, or such other occasional means as may furnish the necessary information for completing these subsidiary heads of the pergunnah register, which are to be left blank until such information may be obtained.—*Reg.* VIII. 1800, *Sect.* 7.

The Collectors are not to require information respecting the rents or measurement of malgoozary or the rents of lakheraje lands.

How such information is to be procured.

The information required to be furnished for the register of intermediate mutations in landed property, and the register of intermediate resumptions or other occurrences respecting grants of exempted lands, will furnish the Collectors with the necessary materials for the intermediate pergunnah register prescribed by Section 5; but if any further information should be requisite they are authorized to require the same under the provisions and restrictions specified in the preceding Section. —*Reg.* VIII. 1800, *Sect.* 8.

From what materials the intermediate registers are to be formed, and how any further information is to be procured.

The general register for the current year and subsequent intermediate register, if duly kept up must furnish the Collectors with full materials for the quinquennial pergunnah register to be prepared in the year 1212, and at every future period. They are also to be careful to avail themselves of any occasional means of authentic information from public measurements, attachments or otherwise, and it is expected that in the course of time their pergunnah registers will contain an accurate statement of the lands and rents throughout their respective districts. To promote the former object they are further directed to note the boundaries of villages, or other sub-divisions, whenever the same may be ascertained; and also, as far as practicable, the limits of the pergunnahs (or other local divisions where there may be no pergunnahs)

What measures the Collectors are to take to render their general registers complete,

No change in the existing limits of pergunnahs, &c. to be made without the previous sanction of Government.

within their respective Collectorships. No change in the exist- [illegible] pergunnahs, or in the mehauls composing them, is to be made by the Collectors without the sanction of the Governor General in Council; but if any Collector should judge it expedient to alter the existing boundaries of a pergunnah for the purpose of rendering it more compact, or otherwise, or to separate any village, talook, or other mehaul from the pergunnah to which it may be now attached, and annex it to any other pergunnah, he shall state his reasons at large for such alterations to the Board of Revenue who will submit the same to the Governor General in Council, with their opinion upon the expediency of the alterations proposed, for his determination. Provided that whenever any such pergunnah, separation or annexation may take place, it shall in no respect affect the rights of the proprietor or occupant of any village, talook, or other mehaul included therein; and provided further that the above restriction against the alteration of existing pergunnahs without the sanction of the Governor General in Council shall not be considered to preclude the Collector from re-annexing to their proper pergunnah any mehauls which may have been separated therefrom by the landholders since the commencement of the Bengal, Fussily or Willaity year 1197, and formed into separate turruffs or otherwise.—*Reg.* VIII. 1800, *Sect.* 9.

The above rule not to preclude the Collectors from reannexing mehals separated since 1197.

Whenever any lands may be ordered to be separated from one Zillah and annexed to another, the Collector of the Zillah from which the separation may be made, is to transmit to the Collector of the Zillah to which the annexation is to be made, an attested copy of all entries, relative to the lands transferred in the last formed quinquennial pergunnah register, as well as any entries relative thereto in the subsequent intermediate register, together with any other information that may have been obtained respecting such lands. These documents will enable the Collector of the Zillah to which the lands may be annexed, to make the necessary entry of them in his intermediate pergunnah register, as well as in the new general register that may be prepared by him.—*Reg.* VIII. 1800, *Sect.* 10.

Copies of entries in the registers to be sent by one Collector to the other, in the case of lands separated from one zillah and annexed to another.

The Judges of zillah and city courts in the four provinces, shall furnish the Collectors of the districts in which the land may be situated, and the Board of Revenue, with a copy of

Zillah and city courts to furnish [co]pies of certain decrees by which the right to, or

the property in, any lands exempted from the payment of public revenue may be altered.

every decree in suits between individuals, which they may pass, or which may be sent to them by superior courts to enforce, by which the right in, or possession of, any lands held exempt from the payment of public revenue, under whatever description of grant the same may be so held, may be affected, in order that the collectors may be enabled to make the necessary entries of the alterations in such right or possession, to be inserted in the quinquennial registers of lands held exempt from the payment of Revenue, directed to be kept by Regulations XIX. and XXXVII. 1793, and XLI. and XLII. 1795. The copies of such decrees shall be transmitted by the Judge within twenty days after the same may be passed or received by him. —*Reg.* LVIII. 1795, *Sect.* 3.

[Extended to the Ceded Provinces by Reg. XXXI. 1803, Sect. 40.]

Notice to be given to the Collector by all persons succeeding to landed property by inheritance or otherwise.

That the Collectors may be regularly informed of all future changes in the property of Malgoozarry estates, or Lakheraje tenures, within their respective Zillahs, for the purpose of entering the same in the prescribed registers, all persons succeeding to the property of any malgoozarry estate, or lakheraje tenure, whether by inheritance, purchase, gift or otherwise, are required to notify such succession, immediately after the same may have taken place, to the Collector of the Zillah in which the estate, or tenure succeeded to may be situated; and to furnish such information as may be necessary to enable the Collector to make the prescribed entries in the public registers.

Collector to enquire into the truth of such allegation.

The Collectors on receiving the notification, are to make such enquiry as may appear necessary to ascertain the truth of the alleged succession to, or transfer of the property, and if the same shall appear to have taken place, are to make the requisite entries in the intermediate pergunnah register, in the intermediate register of mutations in lands paying revenue, and the intermediate register of occurrences respecting lands held exempt from the payment of revenue; provided, with regard to all such entries, that they shall not in any degree affect the rights of any party whose name may be registered therein as the ostensible proprietor of the land, or whose name may not have been registered as the proprietor, but who may establish a right of property in the Dewanny Adawlut, or otherwise.

Penalty for neglect of giving such notice or wilful

Any person succeeding to the property of a malgoozarry estate, or lakheraje tenure, who may not give the notification

above required to the Collector; or any person who may wilfully misrepresent to the Collector his having succeeded to the property of an estate or tenure, to which, on enquiry, it may appear he has not succeeded, shall, for such omission or misrepresentation, be liable to a fine to Government, to be fixed by the Governor General in Council on a report from the Collector, through the Board of Revenue, of the nature and circumstances of the case. When the person succeeding to the estate or tenure may be a minor, or otherwise disqualified from giving himself the notice required, his guardian, or whoever may act for him in the management of the estate or tenure succeeded to, is to give the information required, under the prescribed penalty.—*Reg.* VIII. 1800, *Sect.* 21.

misrepresentation in giving it.

There being reason to believe that the rules in Section 3, Regulation LVIII. 1795, and Section 40, Regulation XXXI. 1803, whereby the Judge of the Zillah and City Courts were directed to furnish the Collectors of the districts in which the land may be situated, and the Board of Revenue, with copies of every decree passed by them in suits between individuals, or sent to them by the superior Courts to enforce, by which the right in, or possession of, any lands held exempt from the payment of public revenue, may be affected, has not generally been observed by those Courts; Section 9, Regulation VIII. 1811, and Section 9, Regulation V. 1813, having also been rescinded by Regulation II. 1819, without due provision being made for all successions to the possession of lakheraje tenures being duly reported to the Revenue Officers, the following Rules are now enacted for that purpose.—*Reg.* III. 1828, *Sect.* 11, *Cl.* 1.

Further provisions for securing to the Revenue Authorities information of the transfers of land held free of assessment.

Persons succeeding to the possession of any lands held free of assessment, or held on a Mocurruree jumma, on the decease of a former occupant, or by gift, purchase, or other assignment or transfer of proprietary right, are hereby required immediately to notify the same to the Collector or other officer exercising the powers of Collector within the district in which the land may be situated, and any omission to notify such succession or transfer for a period of six months or more, shall subject such land to immediate attachment by the Revenue Officers. Nor shall land so attached be restored to the party who may claim to hold it, though the validity of the tenure be subsequently established to the satisfaction of the revenue au-

Persons succeeding to the possession of lands held free of assessment or on Mocurruree Jumma, to report the same to the Collector.

Omission to report within six months to subject the land to attachment.

Land so attached not to be restored until the payment of a fine

equal to one years' jumma.

thorities, until such party shall have paid to Government a fine equal to one year's rent, and if the revenue derivable from the land be not awarded to be the right of the individual, the party shall further be required to refund the amount of the collections made by him, with interest thereon at the rate of 12 per cent per annum; Provided also, that the said rent and collections shall be estimated according to the assessment demandable from the ryots at the time of attachment.—*Reg.* III. 1828, *Sect.* 11, *Cl.* 2.

And if the land be awarded not to be the right of the individual, collections to be refunded with interest.

Claims to recover possession of lands attached as above how to be investigated and determined.

Where the lands of any individual may be attached under the above rule, any claim which he may prefer to recover possession thereof, and to hold the same free of assessment, or on a mokurruree jumma; shall be investigated and determined by the Collector, under the provisions of Regulation II. 1819, as modified by the present Regulation, and by those which have been intermediately enacted.—*Reg.* III. 1828, *Sect.* 11, *Cl.* 3.

I am directed by the Sudder Board of Revenue to transmit, for your information, the subjoined extract from orders of Government, dated the 11th instant, and request that you will immediately call the attention of the Collectors, in your division, to the intent of Clause 2, Sect. 11, Regulation III. 1828, as therein explained; and cause any notification that may have been issued under another conception of the intention of that clause to be recalled.

Extract from orders of Government in the Territorial Department, dated the 11*th August,* 1829.

To the Address of the Sudder Board of Revenue.

Para. 2. The notice published by the Collector of Patna, under date the 27th October last, requiring all the Lakherajdars and moqurrereedars in the Districts to deliver in the particulars of their respective tenures was obviously issued under a misconception of the intention of Clause 2, Sect. 11, of the above enactment, the purport of which was of course merely to prescribe, prospectively, that persons succeeding to the possession of lands held rent-free, or at a moqurreree jumma, should notify the same to the Collector, or be liable to the penalties therein specified; and as it is not impossible that other Collectors may have fallen into the same error, his Lordship in Council desires that Circular Instructions may be immediately issued, calling the attention of the Local Authorities to

the intent of the section above quoted: and directing the recal of any notifications that may have been issued, similar to that of the Collector of Patna.—*Cir. Ord. S. B. R. No.* 40, 18*th Aug.* 1829.

SECTION XIII.

Penalty for non-registration.

All tenures, which may not have been duly registered in the manner prescribed by the Regulations, or of which the specification contained in the Register shall not purport the same to be held under a hereditary title, or as a perpetual endowment, shall be and be held to have been liable to resumption, unless the same may have been declared hereditary by a final decree of a competent Court of Judicature, on the demise of the persons who were in possession at the dates respectively of Regulations XIX. and XXXVII. 1793, Regulations XLI. and XLII. 1795, Regulations XXXI. and XXXVI. 1803, Regulations VIII. and XII. 1805, according as the lands may be within the districts to which those Regulations are severally applicable, or in other parts of the country at the date at which the same came into the possession of the British Government: And Collectors and other officers exercising the powers of Collector, shall accordingly proceed to assess, and, if necessary, attach all lands liable to resumption as above, in the same manner and with the same powers as they are authorized and required to proceed in the case of a lapsed farm, any thing in the existing Regulations to the contrary notwithstanding. Provided further, that the nature and extent of the interests vested in the holders of lands and rents exempted from assessment shall, when the title deeds are forthcoming, and their authenticity recognized, be construed and defined with reference to the whole of the matter contained in such deeds, and not merely by the designation of the tenure. Jageers consequently shall not be held to be life tenures in cases in which the recital of the grant shall be such as clearly to convey a hereditary interest: nor shall any tenures, howsoever designated, be considered to be hereditary and perpetual, if the grants under which they are held shall not convey, in ex-

Tenures not registered under the Regulations, or of which the specification in the register shall not purport them to be held under hereditary title, or as permanent endowment, shall be held liable to resumption; unless declared hereditary by a final decree of a competent authority.

Such lands to be attached and assessed in the same manner as lapsed farms.

Nature and extent of the interests vested in the holders of lakheraj lands how to be determined.

press terms, a hereditary or perpetual interest.—*Reg.* III. 1828, *Sect.* 12.

To the Commissioners of Revenue.

Parties in possession of unregistered grants to be called upon to show proof of Registry,—or neglect, by Govt. Officers, to register.

Considerable doubt having been entertained by officers vested with powers under Regulations II. of 1819, and III. of 1828, for inquiring into the validity of rent-free tenures, as to rules to be observed, in regard to unregistered grants, previous to the enforcement of Section 12, Regulation III. of 1828; I am directed by the Sudder Board of Revenue to transmit to you an Extract, Paragraph 52, of the Board's Report to Government of the 14th December, 1835, laying down the Board's view of the process to be observed in such cases, together with an Extract, Paragraph 12, from the orders of Government approving of the process in question.

Extract from a Report of the Sudder Board to Government, of the 14th December, 1835.

Extract Sudder Board to Government, 14th Dec. 1835. Para. 52.

Para. 52. The Board would have no objection, and they suggest the propriety of such a course for the consideration of his Honour the Governor, to Mr. Reid's pursuing the following process in these cases; viz. holding a proceeding, when he finds that a tenure is not registered, to the effect of giving notice to the party in possession to appear within a specified period, and adduce any proof that the requisitions of the law of 1793 were fulfilled by the holders of the tenure, and that the estate was registered, or that the non-registration was the consequence of any laches on the part of the Government officers, in neglecting petitions to obtain that object; intimating, at the same time, that in failure to attend on the day fixed by the notice, that the lands will be declared liable to assessment and will be assessed accordingly.

Extract from the Orders of Government in reply, under date the 15th January, 1836.

Extract Orders of Govt. 15th Jan. 1836. Para. 12.

12. His Honor apprehends that the Board's exposition of the law with respect to the manner in which unregistered Lakhiraj Tenures are to be dealt with, is perfectly correct. If a tenure, however originally valid, be unregistered, the only course of proceeding, which any officer, whether acting in a purely revenue or in a judicial capacity, is competent to take, is that

which is positively laid down in Section 12, Regulation III. of 1828. In pursuing this course, however, the Governor is not aware of any objection to the formal proceedings recommended by the Board in Paragraph 52 of your letter.—*Cir. Ord. S. B. R. No.* 44, *Sept.* 17*th*, 1836.

Letter from the Secretary to the Government of Bengal, Revenue Department, to the Secretary, Sudder Board, 26*th July*, 1836.

REVENUE. With reference to Mr. Deputy Secretary Thomason's letter of the 22nd February, 1831, and the rule, modifying the strict letter of Clause 3, Section 4, Regulation III. of 1828, to which it gave cover, I am directed by the Right Honourable the Governor of Bengal to request that you will lay before the Board, the accompanying rule for the guidance of all officers employed in the assessment of lands resumed under the above mentioned law, which his Lordship has this day passed in extension of the indulgence accorded by the rule of 1831 in favour of parties liable to be ousted summarily from unregistered tenures. Secretary Govt. of Bengal, 26th July, 1836.

2. The Board are requested to lose no time in circulating the Rule of this date to all the officers concerned; and to direct that it take retrospective effect from the 1st instant, the matter having been under his Lordship's consideration during a considerable part of the present month.

Rule.

No party in possession of lands liable to summary assessment, under the provisions of Section 12, Regulation III. of 1828, and the laws therein cited, as far as the same relates to Bengal, Behar, and Orissa, shall be dispossessed; nor, if he be entitled to enter into engagements with Government for the Revenue, shall the said lands be subjected to assessment, until the expiration of six months from the date on which a copy of the proceeding of the Collector, Deputy Collector, or other competent authority, declaring the lands liable to assessment under the enactments abovementioned, shall be delivered to him; unless the Commissioner of the Division shall consider immediate measures for the assessment of the Muhals essential to the preservation of its integrity, or to the maintenance of its full assets. In the event of its being deemed indispensable, on the above or similar grounds, to oust the party in possession, Rule.

or to proceed to an instant assessment, a sum equal to the net mofussil rental of the Muhal for six months, shall be paid to the party dispossessed, from the treasury of the Zillah Collectorate.—*Cir. Ord. S. B. R. No.* 39, *Aug.* 20*th*, 1836.

To the Commissioners of Revenue.

Limitation of six months for assessment of unregistered resumptions, to commence from date of the order of resumption.

With reference to the Circular Order No. 39, of the 20th August last, I am directed by the Sudder Board of Revenue to transmit to you, for the information of all officers employed in the assessment of Resumed lands, the accompanying copy of Mr. Secretary Mangles' letter, No. 1802, dated the 20th ultimo, modifying the Rule of the 20th July last.

2. The amended rule is also subjoined.

Letter from the Secretary, Government of Bengal, to the Secretary, Sudder Board, 20th December, 1836.

Secretary Govt. of Bengal, to Secretary Sudder Board, 20th Dec. 1836.

I am directed to acknowledge the receipt of your letter, No. 483, of the 15th instant, with its enclosure, and to request, in reply, that the Board will be pleased to direct, that the words, "from the date on which a copy of the proceeding of the Collector, Deputy Collector, or other competent authority, declaring the lands liable to assessment, under the enactments abovementioned, shall be delivered to him," be struck out of the Rule of the 26th July last; and the words, "from the date of the Collector's, or Deputy Collector's order for resumption" substituted in their stead.

2. The enclosure of your letter is herewith returned, a copy having been kept for record.

Rule.

Rule.

No party in possession of lands liable to summary assessment, under the provisions of Section 12, Regulation III. of 1828, and the laws therein cited, as far as the same relate to Bengal, Behar, and Orissa, shall be dispossessed; nor, if he be entitled to enter into engagements with Government for the revenue, shall the said lands be subjected to assessment, until the expiration of six months from the date of the Collector's or Deputy Collector's order for resumption, unless the Commissioner of the Division shall consider immediate measures for the assessment of the Muhal, essential to the preservation of its integrity, or to the maintenance if its full assets. In the event of its being deemed indispensable, on the above

[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] 30 [illegible] —
[illegible] [illegible] . [illegible] June 19[illegible].

or similar grounds, to oust the party in possession, or to proceed to an instant assessment, a sum equal to the net Mofussil rental of the Muhal for six months, shall be paid to the party dispossessed from the Treasury of the Zillah Collectorate.—*Cir. Ord. S. B. R. No. 7, Jany. 16th, 1837.*

The claim to resume on the ground of non-registration of the tenure in the manner prescribed by the Regulations referred to in the margin,* shall not be urged on the part of Government, except in districts in which Registers, duly prepared, exist, to be produced if required before the tribunal deciding the case, and in which the issue of the publications prescribed in those Regulations may be susceptible of proof: nor shall the claim to resume for non-registration be urged in regard to any tenures registered in the Bazee Zuman Dufters established by Orders of Government, dated 31st May, 1782, or in the office established for Behar by Orders, dated 29th June, 1784, or in the Patna Registry Office for Badshahee grants established in 1770 and 1771, nor shall this claim be urged in respect to any tenures, the official recognition of which as Lakheraj, that is, the knowledge of the existence of which as such by the Public Officers of Government can be proved from the public acts and proceedings of the Government, or of the Board of Revenue, or of the Land Revenue Collector of the district of date prior to the passing of the act under which the registration is made obligatory for the district in which the Lands are situated.—*Govt. Ord. Aug. 17, 1840, Par. 10.*

* Reg. 19 of 1793; 37 of 1793; 41 of 1795; 42 of 1795; 31 of 1803; 36 of 1803; 12 of 1805; 7 of 1808.

SECTION XIV.

To whom the proprietary right of resumed lands belong.

[HOOKAMEE GRANTS.]

Questions regarding the proprietary right in lands alienated before the 1st Dec. 1790, and adjudged liable to the payment of revenue, to be determined in the De-

This Regulation, as far as regards lands alienated previous to the 1st December 1790, respects only the question whether they are liable to the payment of revenue or otherwise. Every dispute or claim regarding the proprietary right in lands alienated previous to that date, and which, in conformity to this Regulation, may become subject to the payment of revenue, is to be considered as a matter of a private nature to be

-wanny Adawlut, this regulation with respect to such lands relating only to the revenue.

determined by the Courts of Dewanny Adawlut, in the event of any dispute or claim arising respecting it, between the grantee and the grantor, or their respective heirs, or successors. The grantees, or the present possessors, until dispossessed by a decree of the Dewanny Adawlut, are to be considered as the proprietors of the lands with the same right of property therein as is declared to be vested in proprietors of estates or dependant talooks (according as the land may exceed or be less than one hundred bigahs as specified in Sections 6, 7, and 21,) subject to the payment of revenue, and they are to execute engagements for the revenue with which their lands may be declared chargeable, either to Government, or to the proprietor, or farmer of the estate in which the lands may be situated, or to the officer of Government, (according as the revenue of the estate in which the land may be situated may be payable by the proprietor or a farmer, or collected khaus,) under the rules for the decennial settlement. If by the decision of the Dewanny Adawlut, the proprietary right in the land shall be transferred, the person succeeding thereto, is in like manner to be responsible for the payment of the revenue assessed, or chargeable thereon.—*Reg.* XIX. 1793, *Sect.* 4.

By continuing the proprietary right in the land to the grantee or possessor in the cases specified in the preceding section, instead of dispossessing him of the land altogether agreeably to former usage, and assessing the land in the mode prescribed in the two following sections, a liberal provision will be left to him. Where the grant may have been made before the Bengal year 1178, or the Fussily or Willaity year 1179, the proprietor will hold his land, as an estate paying a fixed revenue of only half the amount assessed on other malguzzarry lands in the country; and where the grant may have been made subsequent to the abovementioned periods, he will hold the land as subject to the payment of the same revenue as other lands assessed with revenue under the rules for the decennial settlement, as hereafter directed.—*Reg.* XIX. 1793, *Sect.* 5.

[BADSHAHEE GRANTS.] Questions regarding the proprietary right in lands included in grants, to be determined in the

It is to be understood that this Regulation respects only the Government proportion of the revenue arising from lands held or claimed to be held under Badshahee grants, and whether Government is entitled to resume or retain such revenue or otherwise. Every dispute or claim regarding the Zemin-

darry or proprietary right in lands included in any grant, is to be considered as a matter of a private nature between the contending parties, and is to be determined in the Dewanny Adawlut.—*Reg.* XXXVII. 1793, *Sect.* 4.

Dewanny Adawlut.

SECTION XV

To whom the Revenue assessed on resumed tenures belongs.

[BENGAL, BEHAR, ORISSA.]

To whom the revenue assessed on lands not exceeding one hundred begahs alienated before the 1st of December 1790, is to belong.

The revenue assessable under Section 9, on land not exceeding one hundred begahs of the measurement that may prevail in the pergunnah, wherein it may be situated, and whether lying in one village, or two, or more villages, and that may have been alienated by any one grant, made previous to the 1st December 1790. and which may be adjudged or become liable to the payment of revenue, shall belong to the person responsible for the discharge of the revenue of the estate or dependent talook in which the land may be situated, notwithstanding any thing said in Section 8, Regulation I. 1793; and he shall not be liable to the payment of any additional revenue, on account of the assessment which may be chargeable on such lands, during the continuance of the engagement under which he may pay the revenue of such estate, or dependent talook, when the land may be so adjudged liable to the payment of revenue. If the estate or dependent talook shall be held khaus when the lands are decreed liable to the payment of revenue, the amount is to be collected by, and paid to whomsoever the rents and revenue, of the estate or talook may be payable, until a settlement shall be concluded for the revenue of it, either with the proprietor, or a farmer. The land which may be so adjudged subject to the payment of revenue, is to be considered as a dependent talook.—*Reg.* XIX. 1793, *Sect.* 6.

How proprietors and farmers of land, &c are to recover the revenue payable to them from the lands specified in section VI.

Proprietors or farmers of land, or dependant talookdars, who may deem themselves entitled to the revenue of any land of the description of that specified in Section VI, situated in their respective estates, farms, or talooks, are to institute a suit for the recovery of it in the court of Dewanny Adawlut. Any proprietor, or farmer of land, or dependant talookdar, or other person, subjecting such lands to the payment of revenue, without having previously obtained a judicial decree for that pur-

pose, shall be liable to be sued for damages by the parties injured.

To whom the right of suing for the revenue of the lands specified in Section VI. is to belong, if the estate or talook be held khaus.

Where estates or dependant talooks may be held khaus, the right of suing for the recovery of the revenue from the lands specified in Section VI. is to be considered as vested in the party to whom the collections from the estate or talook may be payable. If the estate or talook be held khaus by Government, the tehseeldar or other officer is to sue for the revenue unchargeable on such lands in the room of the proprietor, but under the directions of the Collector—*Reg.* XIX. 1793, *Sect.* 11.

The revenue assessable on lands exceeding one hundred begahs, alienated prior to the 1st December 1790, declared to belong to government.

The revenue assessable under Section 8, on land exceeding one hundred begahs of the measurement that may prevail in the pergunnah wherein it may be situated, and whether lying in one village, or two or more villages, and alienated by any one grant made previous to the 1st December 1790, and which may be adjudged or become liable to the payment of revenue, is declared to belong to Government. The lands specified in this Section which may be adjudged liable to the payment of revenue, are to be considered as independent talooks. —*Reg.* XIX. 1793, *Sect.* 7.

[BENARES.] To whom the revenue assessed on lands not exceeding fifty begahs alienated before the Fussily year 1196, shall belong.

The revenue assessable under Section IX. on land not exceeding fifty begas of the measurement that may prevail in the pergunnah wherein it may be situated, and whether lying in one village, or two, or more villages, and that may have been alienated by any one grant made previous to the Fussily year 1196, and which may be adjudged or become liable to the payment of revenue, shall belong to the person or persons responsible for the discharge of the revenue of the estate or putteedarree, in which the land may be situated, notwithstanding any thing said in Section V, Regulation XXVII. 1795, and he shall not be liable to the payment of any additional revenue on account of the assessment which may be chargeable on such lands, during the continuance of the engagements under which he may pay the revenue of such estate, or putteedarry, when the land may be so adjudged liable to the payment of revenue. If the estate or putteedarry, shall be held amauny or khaus, when the lands are declared liable to the payment of revenue, the amount is to be collected by, and paid to, whomsoever the rents and revenue of the estate or talook may be payable, until a settlement shall be concluded for the revenue of it either with the proprietor or a farmer.—*Reg.* XLI. 1795, *Sect.* 6.

How proprie-

Proprietors or farmers of land, or putteedars, who may deem

themselves entitled to the revenue of any land of the description of that specified in Section VI. situated in their respective estates, farms, or talooks, are to institute a suit for the recovery of it in the Court of Dewanny Adawlut. Any proprietor or farmer of land, or putteedar, or other person, subjecting such lands to the payment of revenue without having previously obtained a judicial decree for that purpose, shall be liable to be sued for damages by the parties injured. Where estates or dependant talooks may be held amauny, (khaus) the right of suing for the recovery of the revenue from the lands specified in Section VI. is to be considered as vested in the party to whom the collections from the estate or talook may be payable. If the estate or talook be held khaus by government, the Tehseeldar, or other officer, is to sue for the revenue chargeable on such lands in the room of the proprietor, but under the directions of the collector.—*Reg.* XLI. 1795, *Sect.* 11.

tors and farmers of land, &c are to recover the revenue payable to them from the lands specified in Section VI.

To whom the right of suing for the revenue of the lands specified in Section VI. is to belong if the estate or talook be held khaus.

The revenue assessable under Section 8, on land exceeding fifty begahs of the measurement that may prevail in the pergunnah wherein it may be situated, and whether lying in one village, or two or more villages, and alienated by any one grant made previous to the Fussily year 1196, and which may be adjudged or become liable to the payment of revenue, is declared to belong to Government, but is to be paid through the proprietor of the estate from which the alienation was originally made, under Clause 3, Section 14, Regulation II. 1795. *Reg.* XLI. 1795, *Sect.* 7.

The revenue assessable on lands exceeding fifty begahs alienated prior to the Fussily year 1196 declared to belong to Government.

I am directed by the Sudder Board of Revenue to forward to you for your information and that of your subordinates, the accompanying copy of a letter from Government, dated the 2nd January, No. 50, from which you will perceive that His Honor the Deputy Governor of Bengal is of opinion, that a Hookamee tenure, less than 100 begahs, situated within the limits of a permanently settled Estate escheats to Government if the Lakherajdars die without heirs, but His Honor would not consider it expedient in any case for Government to enforce this right.—*Cir. Ord. S. B. R. No.* 13, *Jan.* 23, 1838.

The Sudder Board of Revenue having observed that much diversity of opinion exist respecting the rules for determining whether the revenue assessable on an invalid rent-free tenure

not exceeding 100 begahs in extent, should belong to Government or otherwise have instructed me to forward for your information, copy of a letter of this day's date addressed to the Commissioner of the Moorshedabad Division, in which their sentiments on the subject are recorded, and they request you will have the goodness to communicate the same to the Resumption Officers within your Jurisdiction.

1. I am directed by the Sudder Board of Revenue to acknowledge the receipt of your letter No. 261 of 19th ultimo, transmitting copy of a communication from the Special Deputy Collector of Rajshahye No. 84 of 28th June, and requesting the instructions of the Board upon the point referred to you by that Officer. In reply I am desired to communicate as follows:

2. The Board's orders No. 24 of the 24th January last, pronouncing the resumption of certain lakheraj tenures to be illegal, proceeded upon the ground that the tenures were less than 100 begahs each in extent, that they were situated within the limits of permanently settled estates and were held under Hookamee grants. The orders had of course no application to any rent-free tenures not so circumstanced.

3. The answer therefore to your reference is very simple, but the Board having observed that a good deal of confusion and diversity of sentiment exist with regard to the rules which should determine the question, whether the revenue of an invalid lakheraj tenure belongs to Government or not, have directed me to take this opportunity of offering remarks upon the law of the case.

4. Section 6, Regulation XIX. of 1793, enacts that the revenue assessable on an invalid rent-free tenure, not exceeding in extent 100 begahs of the measurement that may prevail in the pergunnah wherein it may be situated, shall belong to the person responsible for the discharge of the revenue of the estate or dependent Talook in which the land may be situated. It will be observed that these tenures are liable to assessment just as much as any others, but in as much as the revenue demandable from them must go to the person responsible for the discharge of the revenue of the permanently settled estate within which they may be situated, the claim to assess them (when situated in a permanently settled estate) cannot be preferred on behalf of Government before the Special Deputy Collector, but the suit must be brought by the Zemindar, (or by the de-

pendent Talookdar should the lands be situated within a tenure of that description) and tried under the provisions of Section 30, Regulation II. of 1819, with the exception pointed out in Section 5, Regulation III. of 1828. In cases where Government may have granted leases for a term of years of estates not permanently settled, the right to the revenue assessable on tenures of the description in question, is of course liable to be affected by the terms of the engagements made with the farmer, but even when the farmer with reference to the provisions of Section 6, Regulation XIX. 1793, may be entitled to the revenue, the Board are of opinion that the Special Deputy Collector may resume as on account of Government, taking however particular care to record in his proceedings, that nothing can be claimed by Government until the expiration of the lease, during the continuance of which the farmer is at liberty to make his own arrangements.

5. It will further be observed, that Section 49, Regulation XIX. of 1793, expressly declared that no part of that law shall be considered to extend to rent-free tenures denominated Badshahee or Royal, the rules applicable to such tenures being contained in Regulation XXXVII of the same year. Now this last mentioned Regulation contains no clause in favour of the Zemindars similar to that which exists in Regulation XIX. of 1793, the reason for the omission being sufficiently obvious from the different nature of the tenures to which the two laws respectively relate, and it therefore follows, that a rent-free Badshahee tenure, although situated within the limits of a permanently settled estate, and not exceeding 100 begahs, in extent is liable, if invalid, to resumption and assessment at the suit of Government, and it is consequently the duty of the Special Deputy Collector to decide upon the validity of such tenures, whatever may be their extent and wherever they may be situated.

6. It remains to be considered, whether the quantity of land specified in the Sunnud or the quantity found by actual measurement to be in the possession of the Lakherajdar, should be taken as the rule for determining whether Government or the Zemindar is entitled to the revenue of such tenures. On this point there has been much difference of opinion, but the Government, upon a reference recently made, has declared its con-

currence with the Board in holding, that the question must be decided by the quantity of land specified in the Sunnud. If therefore a Sunnud specify more than 100 begahs, the Special Deputy Collector may decide the case and resume an invalid tenure, notwithstanding the allegation of the Lakherajdar that his tenure does not in fact comprise that quantity of land. It will frequently however happen, that a Sunnud specifies less than 100 begahs, while the Lakherajdar is in possession of more than that quantity. Under such circumstances it has been ruled, that the Zemindar is entitled to the assessment upon the quantity specified in the Sunnud, and the right of Government to derive revenue from the excess, must depend upon whether such excess was or was not included in the permanent settlement of the estate in which the tenure is situated.

7. It would scarcely be necessary to advert in this place to Clause 1, Section 3, Regulation II. of 1819, were it not for the misapprehension that appears to have existed in regard to this Section. Which in fact promulgated no new law with respect to rent-free tenures, and carefully provided against the supposition that it did so. It declares that all lands, which at the period of the decennial settlement were not included within the limits of any Pergunnah Mouzah or other Division of estates for which a settlement was concluded with the owners, shall be liable to assessment at the suit of Government, whatever their extent may be, provided they be not lands for which a distinct settlement has been made subsequent to the permanent settlement, nor lands which (although not included within the limits of any settled estate) are held free of assessment under a valid and legal title of the nature specified in Regulations XIX. and XXXVII. of 1793. You will perceive that this enactment in no way interfered with the old law, which gave the Zemindar a right to the assessment upon a Hookamee tenure situated within his settled estate, if it were less than 100 begahs in extent, for it applies exclusively to lands not included within a settled estate (Towfeer and Alluvial lands) and the only reason for mentioning valid Lakheraj tenures at all, was the consideration that there might be such tenures not included within the limits of a permanently settled estate, in which case, had there been no special provision in their favor, they might have been

construed to fall under the general words of the clause, which declare all lands not so included liable to assessment. To prevent however the possibility of any misconstruction of its meaning, the Legislature added a provision, expressly declaring that nothing contained in that clause shall be taken to affect the rights reserved to Zemindars, Talookdars, and other proprietors of the estates with whom a permanent settlement has been concluded, to the exclusive enjoyment of the rent assessed in lands held on an invalid tenure, free of assessment within the limits of their respective Estates and Talooks, and of which the extent may not exceed 100 begahs if in Bengal, Behar or Orissa, and 50 begahs if within the province of Benares.

8. To sum up briefly what has been said, the law of the case is as follows. It is the duty of the Special Deputy Collectors to decide and to resume on behalf of Government, if found to be invalid, all rent-free tenures whether more or less than 100 begahs in extent, which are not situated within the limits of a permanently settled estate (due attention being paid to the case provided for at the close of the 4th paragraph) or which being so situated, are held under a Badshahee grant or under an Hookamee grant specifying more than 100 begahs, although the Lakheirajdar may be in possession of less than that quantity. On the other hand, the resumption officers must abstain from interfering with any rent-free tenures situated within the limits of a permanently settled estate and held under an Hookamee grant specifying less than 100 begahs, but if, in any such case, they should have reason to suppose that the Lakherajdar is in possession of a greater quantity of land than is specified in the Sunnud, they are at liberty, should there be strong grounds for believing that the surplus was not included in the permanent settlement, to institute an investigation to try that question, and if proved not to have been so included, to resume the excess, but of course such proceedings should not be held on doubtful cases.—*Cir. Ord. S. B. R. No.* 60, *Aug.* 25, 1838.

I am directed by the Sudder Board of Revenue, to transmit for your information and for communication to your subordinates in the resumption and settlement Departments, the accompanying copies of their address to Government and of the orders received in reply, dated respectively, the 7th August

and 5th ultimo, on the subject of Kharij Jumma Grants, not exceeding 100 begahs, and situated within permanently settled estates.

Extract from the Board's letter.—The opinion of the Board, therefore, after a most mature consideration of the question is, that the interference of the resumption officers with all Lakheraj Jumma Grants not exceeding 100 begahs situated in permanently settled Estates, is opposed to Section 6, Regulation XIX. of 1793, and that the lands of all such resumed tenures, together with the collections which may have been made from them, should be restored to the tenants.

Reply of Govt.—In reply to your letter No. 407 of the 7th ultimo with its enclosures, I am directed by the Honourable the Deputy Governor of Bengal to request, that you will inform the Board that His Honor concurring in the view taken by them in regard to Kharij Jumma grants not exceeding 100 begahs situated in permanently settled Estates, is pleased to sanction the restoration of all such resumed tenures, together with the collections which may have been made from them.—*Cir. Ord. S. B. R. No.* 27, *Oct.* 8, 1839.

SECTION XVI.

Null and void Grants.

[BENGAL, BEHAR, ORISSA.]

Grants made since the 1st December 1790, declared null and void.

All grants for holding land exempt from the payment of revenue, whether exceeding or under one hundred begahs, that have been made since the 1st December 1790, or that may be hereafter made, by any other authority than that of the Governor General in Council, are declared null and void, and no length of possession shall be hereafter considered to give validity to any such grant either with regard to the property in the soil, or the rents of it. And every person who now possesses, or may succeed to the proprietary right in any estate, or dependent talook, or who now holds, or may hereafter hold any estate or dependent talook in farm of Government, or of the proprietor, or any other person, and every officer of Government appointed to make the collections from any estate or talook held khaus, is authorized and required to collect the rents from such lands at the rates of the pergunnah, and to dispossess the grantee of the proprietary right in the land, and to re-annex it to the estate or talook in which it may be situated,

without making previous application to a court of judicature, or sending previous or subsequent notice of the dispossession or annexation to any officer of Government; nor shall any such proprietor, farmer, or dependent talookdar, be liable to an increase of assessment on account of such grants which he may resume and annul, during the term of the engagements that he may be under for the payment of the revenue of such estate or talook when the grant may be so resumed and annulled. The managers of the estates of disqualified proprietors, and of joint undivided estates, are authorized and required to exercise on behalf of the proprietors, the powers vested in proprietors by this Section.—*Reg.* XIX. 1793, *Sect.* 10.

Managers of estates to exercise on behalf of the proprietors, the powers vested in proprietors by this section.

[This rule was extended to Benares by Regulation XLI. 1795, Section 10, the date being altered to the beginning of the Fussily year 1196. It was extended to the Ceded Provinces by Regulation XXXI. 1803, Section 6, and the period of the promulgation of that Regulation was declared to be the date, all grants made subsequent to which were to be null and void. It was farther extended to the Conquered Provinces, with the same rule as to the date, by Reg. VIII. 1805, Sect. 21; and to Cuttack by Reg. XII. 1805, Sect. 19, the date after which all grants were to be invalid being the 14th of October 1803.]

Nothing contained in Regulation II. 1819, or in any other Regulation in force, shall affect or be considered to affect the provisions contained in Section X. Regulation XIX. 1793, Section XI. Regulation XXXI. 1803, and in the corresponding enactments applicable to Benares and the Conquered Provinces, relative to grants illegally made, subsequently to the dates specified in the said Rules respectively; and in all cases, in which it shall be established to the satisfaction of the Revenue authorities, that any lands now held free of assessment, were subject to the payment of Revenue at the dates aforesaid or subsequently thereto and that they have not been thereafter exempted from the payment of Revenue under the authority of the Governor General in Council nor adjudged to be exempted from payment of Revenue under a Regular decree of Court; it shall and may be lawful for the said authorities forthwith to resume and assess the said lands; save and except in cases wherein the Revenue of the same may belong to a Zemindar, Talookdar, or other Malgoozar, with whom a permanent settlement has been concluded: nor shall the provisions

Nothing contained in Regulation II 1819, &c. to be construed to affect specific enactments applicable to Benares and the Conquered Provinces relative to illegal grants of land made subsequent to the dates specified in the rules respectively.

Lands now held free of assessment that were formerly subject to the payment of revenue and have not since become exempted by competent authority, may be resumed and assessed by the Revenue authority.

Exception in cases where the Revenue may belong to a Zemindar, &c. with

whom a permanent settlement has been concluded.

of Section 22, Regulation II. 1819, apply to such cases.- -*Reg.* IX. 1825, *Sect.* 8.

SECTION XVII.

Money. Pensions in lieu of Lakhraj Lands.

The general provisions of this Regulation applicable to cases in which the collector may suspect the validity of original tenures of land, subsequently commuted for the money pensions noticed in Regulation XXIV. 1803, and Regulation VI. 1817.

Whenever a Collector or other officer exercising the powers of Collector shall have reason to suspect the validity of the original tenure under which any land subsequently commuted for a money pension, of the description noticed in Regulation XXIV. 1803, and Regulation VI. 1817, was held, it shall be competent to him, with the previous sanction of the Board of Revenue or other authority exercising the powers of that Board, to proceed in the investigation of the tenure under which such land was held, in the same manner as Collectors are authorized by this Regulation to proceed in regard to the tenure of lands now held free of assessment; and if the Board shall be of opinion that the tenure was invalid, it shall be competent to them to resume the money pension granted in consideration thereof, subject to an appeal to the courts of judicature, in the manner prescribed by this Regulation, in cases in which the Board may direct the assessment of land held free of assessment: Provided, however, that it shall not be competent to the revenue authorities to resume any money pension of the above description, of which the incumbent may have been in the enjoyment under orders of the Governor General in Council for a period of twelve years or more.—*Reg.* II. 1819, *Sect.* 29.

Proviso.

SECTION XVIII.

Canoongoe Lands.

[CEDED AND CONQUERED PROVINCES AND BENARES.]

Two canoongoes appointed in every pergunnah.

Two persons shall be immediately appointed in every pergunnah in the ceded and conquered provinces, and in the province of Benares, to execute the office of Canoongoe.—*Reg.* IV. 1808, *Sect.* 2.

Allowance of canoongoes what it includes.

The Canoongoes appointed under this regulation, shall receive such salaries as the Governor General in Council may think proper to fix for their support. The salaries so granted

shall be considered to preclude all claims to further pecuniary allowances under the denomination of nankar, and any other denomination. It is also hereby declared, that the revenue of the lands hitherto held by the Canoongoes generally, in the ceded and conquered provinces, in virtue of their offices, will be liable to resumption by Government; and, that this rule shall be considered applicable both to the persons who may be continued in the office of canoongoe under the present regulation, and to those who may be discharged from the public service. Nothing however contained in this provision shall be construed to preclude the Governor General in Council from continuing to either of those classes of persons, the whole or a part of the lands hitherto held by them respectively, free of assessment, in those cases in which the circumstances of the parties may appear to require that indulgence.—*Reg.* IV. 1808, *Sect.* 5.

Exception.

The above rule is not to preclude claims to rent-free lands, or pensions held by the Canoongoes under grants made to the individuals for reasons unconnected with the office of Canoongoe.- -*Reg.* IV. 1808, *Sect.* 6.

[SHAHABAD, TIRHOOT, SARUN, BEHAR.]

Number of persons to be appointed to execute the office of canoongoe in each Pergunnah, in the Districts of Shahabad, Tirhoot, Sarun, and Behar.

One or two persons shall be appointed to execute the office of Canoongoe in every pergunnah of the districts abovementioned, unless the small extent of a pergunnah shall render it advisable to place more than one pergunnah under the same Canoongoe.—*Reg.* II. 1816, *Sect.* 2.

The salaries which may be fixed for the support of the canoongoes to be considered to preclude all claims to further pecuniary allowances under whatever denomination.

The revenue of the lands hitherto held by canoongoes generally in the province of Behar in virtue of their offices, liable to resumption by Government; and this rule to be applicable to persons

The Canoongoes appointed under this Regulation, shall receive such salaries as the Governor General in Council may think proper to fix for their support. The salaries so granted, shall be considered to preclude all claims to further pecuniary allowances under the denomination of nankar, or any other denomination. It is also hereby declared, that the revenue of the lands hitherto held by the canoongoes generally in the province of Behar, in virtue of their offices, will be liable to resumption by Government; and that this rule shall be considered applicable both to the persons who may be appointed to the office of canoongoe under the present Regulation, and to those who may not be employed in the public service. Nothing however contained in this provision, shall be construed to pre-

who may be appointed to the office of canoongoe under the present regulation as well as to those who may not be employed in the public service.

clude the Governor General in Council from continuing to either of those classes of persons the whole or a part of the lands hitherto held by them respectively, free of assessment, in those cases in which the circumstances of the parties may appear to require that indulgence.—*Reg.* II. 1816, *Sect.* 5.

Reservation to the Governor General in Council, to continue to either of the abovementioned classes of persons, the whole or a part of the lands hitherto held by them respectively, free of assessment.

The same rule as above, Regulation IV. 1808, Sect. 6, was enacted for the Canoongoes in these Provinces.

[CUTTACK, PUTTASPORE.]

Persons to be appointed to fill the office of canoongoe, in each pergunnah in the district of Cuttack, and in the pergunnahs dependent on it.

One or two persons shall be appointed to fill the office of Canoongoe in every pergunnah of the district of Cuttack in the pergunnah of Puttaspore and in the several pergunnahs dependent on it, unless the small extent of a pergunnah shall render it advisable to place more than one pergunnah under the same Canoongoe.—*Reg.* V. 1816, *Sect.* 2.

Mode of fixing the salaries of the canoongoes.

The Canoongoes appointed under this Regulation, shall receive such salaries as the Governor General in Council may think proper to fix for their support. The salaries so granted, shall be considered to preclude all claims to further pecuniary allowances, under the denomination of nankar, or any other denomination. It is also hereby declared, that the revenue of all lands, the grant of which may be found to have been obtained by any person in virtue of his discharging the duties of Canoongoes, will be liable to resumption by Government; and that this rule shall be considered applicable both to the persons, who may be appointed to the office of canoongoe under the present Regulation, and to those who may not be employed in the public service. Nothing however contained in this provision, shall be construed to preclude the Governor General in Council from continuing to either of those classes of persons the whole or a part of the lands held by them respectively, free of assessment, in those cases in which the circumstances of the parties may appear to require that indulgence.—*Reg.* V. 1816, *Sect.* 5.

The revenue of lands, held by persons in virtue of their office of canoongoe, liable to resumption;

But the Governor General in Council may continue to the classes of persons mentioned in this section, the whole or any part of the lands held by them, free of assessment.

The same rule as above was enacted for the Canoongoes in these Provinces.

Preamble.

Whereas it was enacted by Section 5, Regulation II. of

1816, that the Revenue of lands held by Canoongoes, generally in the Province of Behar, in virtue of their offices, should be liable to resumption; and accordingly under that law, various resumptions of land so held took place, and the parties to whom the Zemindaree interest in the same appeared to belong, were admitted to engage for the Government Revenue; but on the consideration of the proceedings held under the provisions of the above rule, it appeared to the Governor General in Council to be improper wholly to deprive the Canoongoes, or their representatives, of the advantages derived from such lands, and enjoyed by them for a long course of years; and it was accordingly resolved by Government, on the 14th February, 1822, that in cases where the lands had been occupied and managed by the Canoongoes, or their representatives, and the rents received by them, they should be replaced in possession of such lands, and a settlement made with them on the principle prescribed by Clause 2, Section 8, Regulation XIX. of 1793, viz. the Revenue to be paid to Government to be equal to one-half of the annual produce (or rental) of the lands, calculated according to the rates at which other lands in the Pergunnah of a similar description may be assessed, securing to the proprietors of the soil such Malikana or other allowance, as they might have received prior to the resumption of the official Minhye tenure; and whereas the existing laws relative to the settlement of resumed Lakheraj tenures, are not properly applicable to the case; and it appears to be expedient expressly to provide for the maintenance, by the Courts of Judicature, of the arrangement above described, in order that the Canoongoe Minhyedars may be secured in the possession, (subject to the quit-rent fixed by Government) of the land rents, and produce, heretofore possessed by them; and whereas it is desirable to provide for the settlement, on the same principle, of any lands that may be resumed under the corresponding rules relating to Canoongoes, and their official tenures, in other parts of the country; and whereas it appears to be generally expedient to make a distinct provision for securing to the holders of Lakheraj lands, resumed by the Officers of Government, and assessed on the principle prescribed in Clause 2, Section 8, Regulation XIX. 1793, the benefits which that law was designed to bestow; and to declare the competency of Government in other cases to continue the persons, who have

heretofore occupied lands free of assessment, or their representatives, in the possession of the same, notwithstanding such lands being made subject to assessment; the following rules have been enacted for these purposes respectively, to be in force throughout the Territories subject to the Presidency of Fort William from the date of the promulgation of this Regulation. —*Reg.* XIII. 1825, *Sect.* 1.

Under certain circumstances Minhyedars and their heirs may be continued by Government in possession of resumed Lands heretofore held as Lakheraj tenures by Canoongoes.

In cases of Lakheraj tenures resumed under the provisions of Regulation IV. 1808, Regulation II. and V. 1816, or any other Regulation in force, relative to lands held by Canoongoes by virtue of their offices, where the Minhye or Lakheraj tenure, and the right of property in the land, are vested in distinct parties, it shall be competent to the Governor General in Council, by instruction to the Revenue Board, or other authority, empowered to make the resumption, to continue the Minhyedars and their heirs, in possession and management of such lands, subject to such assessment as he shall judge it proper to direct: and the parties claiming the Zemindaree interest, or other proprietary right in such mehals, shall not be entitled to any land-rent, produce, or profit beyond what they may have enjoyed up to the period of the resumption of the tenure, or would have been entitled to receive, in the event of Government having confirmed the same in perpetuity, free of assessment. Persons consequently claiming to be Maliks of the said lands, who, during the continuance of the Lakheraj tenure, had not possession of the same, whether they received a Malikana allowance, or otherwise, shall not disturb the possession of the Minhyedars, or their heirs and representatives, in any case wherein the Governor General in Council may have sanctioned such possession; and any suit preferred by such persons in a Court of Judicature, to recover possession, contrary to the intent and meaning of this rule, shall be dismissed with costs. Provided, however, that in all cases of the nature abovementioned, wherein the Zemindar, or other proprietor of the land, may have received Malikanah, or other proprietary due, during the existence of the Lakheraj tenure, he shall continue to receive the same, notwithstanding the resumption of the Lakheraj, in like manner, as if such resumption had not taken place.—*Reg.* XIII. 1825, *Sect.* 2.

Subject to assessment.

Restriction on parties claiming Zemindaree interest or other proprietary right.

Who are prohibited from disturbing the possession of Minhyedars whose possession has been sanctioned by Government.

Proviso.

The tenures of Minhyedars so situated declared to

The tenures of the Minhyedars which have been confirmed to them, with the sanction of Government, by the arrange-

ment referred to in the Preamble of this Regulation, or which may be so confirmed, in conformity with the preceding Section, are declared to be hereditary and transferrible: but should they escheat to Government, the parties possessing a Zemindaree interest or other proprietary right in the lands, will be admitted to engage for the Revenue, subject to a fresh assessment, to be adjusted on the actual assets under the general Regulations.- -*Reg.* XIII. 1825, *Sect.* 3.

be hereditary and transferrible, but should they escheat to Government the parties possessing Zemindaree interest will be admitted to engage for the revenue, subject to a fresh assessment.

SECTION XIX.

Thanadaree and other Police Lands.

[BENGAL, BEHAR, ORISSA.]

Police allowances in land or money received by proprietors whose jumma is declared fixed, resumable by Government.

The jumma of those zemindars, independent talookdars, and other actual proprietors of land, which is declared fixed in the foregoing articles, is to be considered entirely unconnected with, and exclusive of, any allowances which have been made to them in the adjustment of their jumma, for keeping up tannahs, or police establishments, and also of the produce of any lands, which they may have been permitted to appropriate for the same purpose; and the Governor General in Council reserves to himself the option of resuming the whole or part of such allowances, or produce of such lands, according as he may think proper, in consequence of his having exonerated the proprietors of land from the charge of keeping the peace, and appointed officers on the part of Government to superintend the police of the country. The Governor General in Council, however, declares, that the allowances, or produce of lands, which may be resumed, will be appropriated to no other purpose but that of defraying the expense of the police, and that instructions will be sent to the Collectors, not to add such allowances, or the produce of such lands, to the jumma of the proprietors of land, but to collect the amount from them separately.—*Reg.* I. 1793, *Sect.* 8, *Cl.* 4.

Allowances that may be so resumed not to be added to the jumma, but to be collected separately and applied solely to the police.

The produce of the lands, and the allowances, resumed or resumable, under Clause 4, Section 8, Regulation I. 1793, being still applicable towards defraying the expence of the police, are to be carried to the public account towards discharging the same as heretofore.—*Reg.* VI. 1797, *Sect.* 2, *Cl.* 2.

Produce of lands and allowances applicable to the police, to be carried to the public account as heretofore.

[BENARES.]

Police lands eventually resum-

The jumma of those zemindars, talookdars, and other actual proprietors of land, which is declared fixed in the foregoing ar-

able by Government.

ticles, is to be considered entirely unconnected with, and exclusive of, the produce of any lands set apart for the maintenance of pheris, passees, ghorites, or other description of watchmen, employed in services of police; and the Governor General in Council reserves to himself the option of resuming the whole or part of the produce of such lands, should he at any time hereafter think fit to exonerate the proprietors of the land from being responsible for the peace, and to appoint officers on the part of Government, to perform the duties relating to the police now required from them. The Governor General in Council however declares, that the produce of lands which may in that case be resumed, will be appropriated to no other purpose but that of defraying the expence of the police, or providing a maintenance for the pheris, passees, ghorites, or other description of watchmen employed therein.—*Reg.* XXVII. 1795, *Sect.* 5, *Cl.* 4.

Allowances that may be so resumed, not to be added to the jumma but to be collected separately, and applied solely to the police.

[CEDED PROVINCES.]

Substance of orders issued by the Board of Commissioners, under date the 30th September 1802, vesting a discretionary power in the land holders to grant small portions of land for the support of village watchmen, exempt from the payment of rent. Such lands resumable, on the death or removal of the persons to whom they may be granted;

And considered responsible for the revenue assessed upon the estates to which they may respectively appertain.

In pursuance of an order issued by the Board of Commissioners, under date the 30th of September, 1802, a discretion is vested in the landholders to grant small portions of land exempt from the payment of revenue, for the support of their village watchmen, whenever they shall prefer making such grants to paying the watchmen a pecuniary allowance. Such grants, however, shall be resumable on the death or removal of the persons to whom they may be made; and the lands thus exempted from the payment of rent, as well as any other lands held by public officers or private servants exempt from rent, in lieu of wages, and not forming part of any authorized lakheraje grants, or tenures, within the provisions of Regulations XXXI. and XXXVI. 1803, shall be considered to form a component part of the malgoozarry lands of the estates to which they may respectively appertain, for the revenue assessed upon which they will consequently be held responsible, in common with all other malgoozarry lands included therein.—*Reg.* XXV. 1803, *Sect.* 32.

Police allowances in land or money, resumable by Government, on the proprietors being exonerated from the charge of keeping the peace.

The jumma of those zemindars, independent talookdars, and other actual proprietors of land, with whom a settlement shall have been made, or shall be hereafter concluded, under the terms set forth in the aforesaid proclamation, dated the 14th July, 1802, or in Section 53, Regulation XXVII. 1803, shall be considered exclusive of any allowances which have been made to them in the adjustment of their jumma, for maintaining tan-

nahs, or police establishments, and also of the produce of any lands which they may have been permitted to appropriate for the same purpose; and the Governor General in Council reserves to himself the option of resuming the whole or any part of such allowances, or of the produce of such lands, if he should at any time think it to be proper to exonerate the proprietors of land from the charge of keeping the peace, and to appoint officers on the part of Government to superintend the police of the country. The Governor General in Council, however, declares, that the allowances, or the produce of lands, which may be thus resumed, will be appropriated to no other purpose but that of defraying the expense of the police.—*Reg.* XXV. 1803, *Sect.* 35, *Cl.* 4.

[CONQUERED PROVINCES.]

A discretionary power vested in the landholders to grant small portions of land for the support of village watchmen, exempt from the payment of rent. Such lands resumable, on the death or removal of the persons to whom they may be granted.

And considered responsible for the revenue assessed upon the estates to which they may respectively appertain.

A discretionary power is vested in the landholders to grant small portions of land, exempt from the payment of revenue, for the support of their village watchmen, whenever they shall prefer making such grants to paying the watchmen a pecuniary allowance. Such grants, however, shall be resumable, on the death or removal of the persons to whom they may be made; and the lands thus exempted from the payment of rent, as well as any other lands held by public officers or private servants exempt from rent, in lieu of wages, and not forming part of any authorized lakheraje grants, or tenures, within the provisions of Regulations XXXI. and XXXVI. 1803, shall be considered to form a component part of the malgoozarry lands of the estates to which they may respectively appertain, for the revenue assessed upon which they will consequently be held responsible, in common with all other malgoozarry lands included therein.—*Reg.* IX. 1805, *Sect.* 22.

Police allowances in land or money, resumable by Government, on the proprietors being exonerated from the charge of keeping the peace.

The jumma of those Zemindars, independent talookdars, and other actual proprietors of land, with whom a settlement shall be concluded, under the terms set forth in the present proclamation, shall be considered exclusive of any allowances which may be made to them, in the adjustment of their jumma, for maintaining tannahs, or police establishments; and also of the produce of any lands which they may be permitted to appropriate for the same purpose; and the Governor General in Council reserves to himself the option of resuming the whole or any part of such allowances, or of the produce of such lands, if he should, at any time, think it to be proper to exonerate the proprietors of land from the charge of keeping

the peace, and to appoint officers, on the part of Government, to superintend the police of the country. The Governor General in Council, however, declares, that the allowances, or the produce of lands, which may be thus resumed, will be appropriated to no other purpose but that of defraying the expense of the police.—*Reg.* IX. 1805, *Sect.* 25, *Cl.* 4.

[CUTTACK.] Rents of lands assigned for the maintenance of certain sirdar pykes, &c. not liable to resumption, nevertheless the fixed quit rents to be paid as usual.

Nothing contained in the foregoing proclamation shall be construed to authorize the resumption of the rents of any lands at present appropriated to the maintenance of certain sirdar pykes and other pykes for the support of the police, provided however that any fixed quit rent which may be at present payable by such sirdar and other pykes conformably to the tenor of their grants, shall continue to be paid agreeably to established usage.—*Reg.* XII. 1805, *Sect.* 9.

SECTION XX.

Mocurreries.

[BENGAL, BEHAR AND ORISSA.] Rule respecting mocurrery leases to persons not the actual proprietors of the lands included in them, if granted or confirmed by the Supreme Government, or obtained previous to the Company's accession to the dewanny.

Mocurrery leases to persons not the actual proprietors of the lands included in such leases, if granted or confirmed by the Supreme Government, or obtained previous to the Company's accession to the dewanny, are to be continued in force during the lives of the lessees, subject to an abatement of the fixed jumma for the authorized sayer resumed or abolished; but on their death, the settlement is to be made with the actual proprietors of the soil, agreeably to this Regulation.—*Reg.* VIII. 1793, *Sect.* 16.

Rule respecting Mocurrerydars holding lands of which they are not the proprietors granted since the Company's accession to the dewanny and not sanctioned by Government.

Qualification of the preceding part of this rule, but subject to the pleasure of the Court of Directors.

Mocurrerydars holding lands of which they are not the actual proprietors, and whose mocurrery grants have been obtained since the Company's accession to the Dewanny, and never received the sanction of the Supreme Government, are to be dispossessed, and the settlement is to be made with the actual proprietors of the soil, under this Regulation. In cases however, where such Mocurrerydars have been in possession of their mocurreries for a term exceeding twelve years, they are to receive during their lives, (subject to the pleasure of the Honourable Court of Directors,) the difference between the jumma at which they held the lands, and that which may be now agreed to by the actual proprietors, added to the neat produce of the authorized sayer, resumed or abolished.—*Reg.* VIII. 1793, *Sect.* 18.

Mocurrery grants to the actual proprietors of the soil, made or confirmed by the Supreme Government, are also to be continued in force, subject in like manner to an abatement of the fixed jumma on account of the resumption or abolition of the authorized sayer. The rules contained in this section, and Section 16, are to be considered subject to the future confirmation, or revocation, of the Honourable Court of Directors. —*Reg.* VIII. 1793, *Sect.* 17.

Rules respecting mocurrery grants to the proprietors of the soil made or confirmed by the Supreme Government.

Rules in this and the preceding section to be considered subject to the future confirmation or revocation of the Court of Directors.

From this rule however are to be excepted, all separated talooks, as well as all lands heretofore paying revenue immediately to Government, which may have been held at a fixed jumma during the last twelve years, and the decennial settlement is to be concluded with the proprietors of such talooks and lands, at the jumma hitherto paid by them, subject to such deduction as may be found equitable on account of the sayer, resumed or abolished.—*Reg.* VIII. 1793, *Sect.* 76.

Exceptions to the preceding rule in favour of separated talookdars and others who have paid a fixed jumma for the last twelve years.

From the above rules are to be excepted all lands heretofore paying revenue immediately to Government, which may have been held at a fixed jumma, during the last twelve years; and the decennial settlement is to be concluded with the actual proprietors of such lands, at the jumma hitherto paid by them, subject to such deduction, as may be found equitable, on account of the sayer, resumed or abolished.—*Reg.* VIII. 1793, *Sect.* 84.

Exception to the above rules.

[CEDED PROVINCES.]

Duty of Collectors in the assessment of lands held under mocurreree or istumrar grants of the native governments, on the decease of the holders.

On the death of any person holding lands in the Ceded and Conquered Provinces or in Bundlekund, on a mocurreree or istumrar tenure granted by the native Governments, it shall be the duty of the Collector of the zillah in which the lands are situated, to proceed to the assessment thereof, under such instructions as he shall receive from the Board of Commissioners on the subject, and that Board shall apply to the Governor General in Council for special orders, in any case which may appear to call for a deviation from the established rules prescribed for the public assessment; in order, that if the Governor General in Council shall in any case see grounds for granting any abatement from the jumma, which on that principle would be assessed on the lands, he may take the subject into his consideration, and may allow such reduction of the jumma, as may be deemed proper.—*Reg.* I. 1815, *Sect.* 2.

Reservation of power to the Governor General in Council to grant an abatement from the jumma of the lands which may be so assessed.

Courts of justice restricted from taking cognizance of the question of resumption of grants described in 2nd Section of this regulation, or of the assessment of the lands consequent thereto.

No Court of justice shall on any account take cognizance of the question of resumption of grants of the nature described in the preceding Section on the death of the holder, nor of the assessment of the lands consequent thereto.—The adjudication of all claims on these accounts, shall rest definitively with the revenue authorities, subject only to the approval of the Governor General in Council.—*Reg.* I. 1815, *Sect.* 3.

The courts of justice not restricted from taking cognizance of claims to the actual property in the lands.

Nothing contained in Section 3, shall be construed to preclude the Courts of justice from receiving, hearing, trying and deciding on claims to the actual property in the lands situated within a mocurrery or istumrar, as well as to all or any of the rights, privileges or advantages annexed to such property by the existing laws or established usages of the country.—*Reg.* I. 1815, *Sect.* 4.

Revenue officers to resume any mocurrurree tenure which may be proved to be illegal or invalid, during the life of the incumbent.

Nothing contained in this Regulation, shall be considered to deprive the revenue officers of the right to resume as heretofore, any mocurreree tenure proved to be illegal or invalid, during the life of the present incumbent.—*Reg.* I. 1815, *Sect.* 5.

Courts of justice prohibited from taking cognizance of claims to such tenures, if the possessor of the grant shall have died subsequently to the cession or conquest.

All such mocurreree or istumrar having been declared to be life tenures only, the Courts of judicature are hereby further prohibited from taking cognizance of any claim to hold any land at a mocurreree or instumrar rent, by virtue of any grant, the possessor of which may have died at any time subsequent to the cession or conquest.—*Reg.* I. 1815, *Sect.* 6.

Application of certain provisions of existing Regulations to grants for holding lands under mocurrery or certain other tenures.

The several rules prescribed in Regulations XIX. and XXXVII. of 1793, and Regulations XLI. and XLII. of 1795, Regulations XXXI. and XXXVI. of 1803, Regulations VIII. and XII. of 1805, for determining the validity of grants for holding lands exempt from the payment of public revenue, are hereby declared applicable to grants for holding lands under mocurrery or other tenures limiting the demand of Government; provided, however, that nothing in this Section shall be construed to affect the rules contained in Regulation VIII. 1793, relative to the assessment of lands held under valid grants, or leases, of the above nature, nor to alter the provisions contained in Regulation I. 1815, by which tenures of that description are declared liable to assessment on the death of the grantee.—*Reg.* II. 1819, *Sect.* 4.

Proviso.

SECTION XXI.

Towfeer.

It is hereby declared and enacted, that all lands which at the period of the decennial settlement were not included within the limits of any pergunnah, mouza, or other division of estates for which a settlement was concluded with the owners, not being lands for which a distinct settlement may have been made since the period above referred to, nor lands held free of assessment under a valid and legal title of the nature specified in Regulations XIX. and XXXVII. 1793, and in the corresponding Regulations subsequently enacted, are, and shall be considered liable to assessment in the same manner as other unsettled mehauls, and the revenue assessed on all such lands, whether exceeding one hundred begahs or otherwise, shall belong to Government; provided, however, that nothing in the above rule shall be construed to effect the rights reserved to Zemindars, talookdars and other proprietors of estates, with whom a permanent settlement has been concluded, to the exclusive enjoyment of the rent assessed on lands held on an invalid tenure, free of assessment, within the limits of their respective estates and talooks, and of which the extent may not exceed one hundred begahs if in Bengal, Behar, or Orissa, and fifty begahs if within the province of Benares.—*Reg.* II. 1819, *Sect.* 3, *Cl.* 1.

Lands not included in the decennial settlement, or for which a distinct settlement may not have been concluded, are liable to assessment, excepting lands held free of assessment under a valid and legal title.

Proviso.

Nothing in the present Regulation shall be considered to affect the right of the proprietors of estates, for which a permanent settlement has been concluded, to the full benefit of all waste lands included within the ascertained boundaries of such estates respectively, at the period of the decennial settlement, and which have since been or may hereafter be reduced to cultivation. The exclusive advantages resulting from the improvement of all such lands were guaranteed to the proprietors by the conditions of that settlement, and it being left to the Courts of judicature to decide on all contested cases, whether lands assessed under the provisions of this Regulation were included at the period of the decennial settlement within the limits of estates for which a settlement has been concluded in perpetuity, and to reverse the decision of the revenue authorities in any case in which it shall appear that lands, which ac-

Declaration that this Regulation shall not be considered to effect the right of proprietors to waste lands which were guaranteed to them at the permanent settlement.

tually formed at the period in question a component part of such an estate, had been unjustly subjected to assessment under the provisions of this Regulation, the Zemindars, and other proprietors of land will be enabled by an application to the Courts to obtain immediate redress in any case in which the revenue authorities shall violate, or encroach on the rights secured to them by the permanent settlement.—*Reg.* II. 1819, *Sect.* 31, *Cl.* 1.

Not to warrant the claim of additional revenue from lands permanently assessed on the plea of error or fraud.

Exception.

It is further hereby declared and enacted, that all claims by the revenue authorities on behalf of Government to additional revenue from lands, which were at the period of the decennial settlement included within the limits of estates for which a permanent settlement has been concluded, whether on the plea of error or fraud, or on any pretext whatever,—saving of course the case of lands expressly excluded from the operation of the settlement, such as lakheraj and thannadarry lands, shall be, and be considered wholly illegal and invalid.—*Reg.* II. 1819, *Sect.* 31, *Cl.* 2.

No Regulation defines the mode in which it shall be determined whether any lands were or were not at the period of the Decennial Settlement included within the limits of an Estate for which a settlement was concluded. But the following rules were drawn up by Mr. Millet on the principles laid down in the Government letters of the 22d May 1818, and 30th July 1828.

If the settlement have been made for a Zemindaree, Chucklah, Pergunnah, Talookah, Mouza or any other division of estates, in the gross, without specification of its component parts, and without reservation (saving of course the case of lands expressly excluded by law from the operation of the settlement, such as Lakheraj and Thannadaree lands,) then whatever lands were comprehended within the limits of such Zemindaree, chucklah, pergunnah, talookah, mouzah, or other division of estates, at the period of the settlement, whether that fact be ascertainable by defined boundaries, fixed by permanent land marks, or in failure of them by authentic documents or credible oral testimony, are to be considered as comprehended in the settlement, and not liable to any further assessment.

If the settlement have been made for a Zemindaree, chucklah, pergunnah, talookah, mouzah, or other local division of

estates, the proposals or engagements for which purported to contain a specification of the villages composing such Zemindaree or other local division, then all lands which cannot be ascertained, by evidence of the kind described in the foregoing clause, to have been comprehended at the period of the settlement in some one or other of the villages so specified, shall be held not to have been included within the limits of the Zemindaree or other estate so engaged for, and shall be liable to assessment accordingly; provided, however, that this rule shall not extend to cases, in which, from the documents and facts adduced, the specification of the villages may appear to have been intended merely as a detail of the computed assets on which the settlement was formed, and not as an exact definition of the villages composing the estate settled, such cases shall be considered as falling within the rule in clause second.

If the settlement have been made for two or more specified mouzahs, which mouzahs at the period of the settlement did not in the aggregate constitute a talook, or other similar division of estates, the settlement shall be considered to comprehend only the mouzahs so specified.

I am directed to acknowledge the receipt of your letter, No. 106, dated the 29th ultimo, and to request that you will inform the Board in reply, that the Right Hon'ble the Governor of Bengal concurs in the opinion expressed by them in Para. 6th, that no Towfeer, or Deara, cases ought to be decided by the officers employed in the enforcement of the Resumption laws, "until the existence of such lands, in excess of the limits and boundaries of estates at the Permanent Settlement, has been accurately and carefully ascertained," by means of local inquiry, evidence on the spot, and an accurate survey and mapping of the land.

2. The Board will be pleased to issue the necessary instructions to their subordinates accordingly. There is reason to apprehend that the just rights of Government, which a careful and deliberate preliminary investigation would have established to the satisfaction of the Courts of law, have been sacrificed in frequent instances, especially in regard to Towfeer cases, by crude and precipitate assumptions of the points which ought to have been proved. Hence it has arisen, that the claims, ad-

vanced on the part of Government, to assess lands alleged to be without the pale of the perpetual settlement, but to have been annexed since the date of that measure, to permanently settled estates, have been generally, and, under the circumstances above stated, very properly, negatived by the Special Commissioners: and the result,—attributable chiefly, in most instances, to the haste and indiscretion with which the cases have been prepared,—has been a considerable loss of revenue.

3. His Lordship relies upon the best endeavours of the Board to prevent the perpetuation of the mismanagement of the public business above adverted to, by the issue of such instructions as shall ensure the careful preparation of all the very difficult cases, connected with the claims of Government to derive revenue from Towfeer or alluvial lands, especially the former.—*Letter from the Secretary to the Government of Bengal, to the Secretary, Sudder Board, Cir. Ord. S. B. R. No. 22, April* 25, 1836.

I am directed to transmit, for the information and guidance of yourself and your subordinates, particularly of the Special Deputy Collectors, the accompanying copy of a letter from the Secretary to the Bengal Government, in the Revenue Department, dated the 2nd instant.

2. It is expected you will observe, that the several special Deputy Collectors shall confine their operations, in the first instance, to the investigation of tenures claimed as rent-free, and to large and valuable tracts of unquestionably recent alluvial formation.

3. With reference to the second Paragraph of the Orders of Government, you will impress on your subordinates due attention to the anxiety of the Right Hon'ble the Governor of Bengal, "that no unnecessary alarm should be given to the landholders, by the institution of suits on insufficient grounds to establish the liability to assessment of lands attached to permanently settled Mehals, but alleged to be 'Towfeer,' except when the permanent settlement was formed on a detailed and recorded measurement, as in Chittagong or Sylhet; or where, —as in the districts bordering upon the Sunderbuns, or upon the forests which skirt the valley of the Ganges both on the East and West,—there existed, at the date of that arrangement, very extensive wastes, certainly not included within the

limits of any estate, and of which the boundaries, in relation to the cultivated lands adjacent, were pretty accurately known, it must always be a matter of extreme difficulty to urge such claims, without, at the same time, whether the attempt be eventually successful or otherwise, affording plausible grounds for the allegation that the officers of Government are disposed to break the faith of the permanent settlement."

4. You will, in conformity with the wishes of the Government and of this Board, issue instructions to the Special Deputy Collectors, to defer all investigations regarding alleged Towfeer lands, until they shall have disposed of all the lakheraj cases on their respective files. You will enjoin them to receive with great caution all information tendered by informers, and carefully to abstain from giving such encouragement to that class of persons as might enable them to impose upon and plunder the people.

5. With reference to the cases referred to in the 4th Paragraph of the Government Orders, you will, the Sudder Board desire, instruct the Special Deputy Collectors in your division to report through you, for the Sudder Board's orders, whenever a strong primâ facie case of Towfeer exists, to warrant their soliciting permission to institute a suit on behalf of Government, to investigate the point of liability to assessment.

6. You will, of course, communicate these orders, after the manner you may consider best calculated to induce the most implicit attention to, and observance of them by your subordinates.—*Letter from the Sudder Board of Revenue to the Commissioners of Revenue, Cir. Ord. S. B. R. No.* 33, *May* 16, 1837.

SECTION XXII.

Alluvial Land.

The same principle, applicable to churs and alluvion lands.

The foregoing principles* shall be deemed applicable, not only to tracts of land such as are described to have been brought into cultivation in the Sunderbuns, but to all churs and islands formed since the period of the decennial settlement, and generally to all lands gained by alluvion, or dereliction since that period, whether from an introcession of the sea, an alteration

* The Section containing these principles is the first under the head of *Towfeer*.

in the course of rivers, or the gradual accession of soil on their banks.—*Reg.* II. 1819, *Sect.* 3, *Cl.* 2.

Lands gained by gradual accession from the recess of a river or the sea, to be considered an increment to the tenure of the person to whose estate it may be annexed.

Proviso.

When land may be gained by gradual accession, whether from the recess of a river, or of the sea, it shall be considered an increment to the tenure of the person to whose land or estate it is thus annexed, whether such land or estate be held immediately from Government, by a zemindar or other superior land-holder, or as a subordinate tenure, by any description of under-tenant whatever. Provided that the increment of land thus obtained shall not entitle the person in possession of the estate or tenure to which the land may be annexed, to a right of property or permanent interest therein beyond that possessed by him in the estate or tenure to which the land may be annexed, and shall not in any case be understood to exempt the holder of it, from the payment to Government of any assessment for the public Revenue, to which it may be liable under the provisions of Regulation II. 1819, or of any other Regulation in force. Nor if annexed to a subordinate tenure, held under a superior landholder, shall the under-tenant whether a Khoodkhast Ryot, holding a Mouroosee Istimraree tenure at a fixed rate of rent per begah, or any other description of under-tenant liable by his engagements, or by established usage to an increase of rent for the land annexed to his tenure by alluvion, be considered exempt from the payment of any increase of rent to which he may be justly liable.—*Reg.* XI. 1825, *Sect.* 4, *Cl.* 1.

When a river by a sudden change of its course may break through and intersect an estate, the lands so separated being clearly recognized, shall remain the property of the original owner.

The above rule shall not be considered applicable to cases in which a river, by a sudden change of its course, may break through and intersect an estate, without any gradual encroachment, or may by the violence of its stream separate a considerable piece of land from one estate, and join it to another estate, without destroying the identity, and preventing the recognition of the land so removed. In such cases the land on being clearly recognized, shall remain the property of its original owner.—*Reg.* XI. 1825, *Sect.* 4, *Cl.* 2.

Churs or Islands thrown up in a large and navigable river, (the channel between the Island and the shore not being fordable,)

When a *Chur* or Island may be thrown up in a large and navigable river (the bed of which is not the property of an individual,) or in the sea, and the channel of the river, or sea, between such Island and the shore may not be fordable, it shall, according to established usage, be at the disposal of Govern-

ment.—But if the channel between such Island and the shore, be fordable at any season of the year, it shall be considered an accession to the land tenure or tenures of the person or persons, whose estate or estates may be most contiguous to it, subject to the several provisions specified in the first Clause of this Section, with respect to increment of land by gradual accession.—*Reg.* XI. 1825, *Sect.* 4, *Cl.* 3.

to be at the disposal of Government.

But if fordable, to whom they shall belong.

In small and shallow rivers, the beds of which with the julkur right of fishery, may have been heretofore recognized as the property of individuals, any sand bank or chur that may be thrown up, shall, as hitherto, belong to the proprietor of the bed of the river, subject to the provisions stated in the first Clause of the present Section.—*Reg.* XI. 1825, *Sect.* 4, *Cl.* 4.

Claims to Churs, &c. &c. thrown up in small and shallow rivers how to be determined.

In all other cases, viz. in all cases of claims and disputes respecting land gained by alluvion, or by dereliction of a river, or the sea, which are not specifically provided for by the rules contained in this Regulation; the Courts of justice, in deciding upon such claims and disputes shall be guided by the best evidence they may be able to obtain of established local usage, if there be any applicable to the case, or if not, by general principles of equity and justice.—*Reg.* XI. 1825, *Sect.* 4, *Cl.* 5.

Disputes relative to lands gained by alluvion or by dereliction of a river or the sea, not provided for by the provisions of the present Regulation how to be adjusted.

From the representation of his case made by the petitioner, it would appear that the land resumed was chur land; and with reference to this circumstance, you are requested particularly to inquire whether subsequently to the Decennial Settlement any land had been carried away by the river from this very spot; in which case, the property in question might be considered as the restoration of old, rather than the accession of new land, and consequently as the right of the original proprietors.—*Extract of a Letter from the Offg. Deputy Secretary to the Govt.* 2d *Nov.* 1830, *Par.* 2. *Cir. Ord. S. B. R. No.* 76, *Nov.* 12, 1830.

The attention of the Sudder Board of Revenue having been recently directed, on more than one occasion, to the disregard evinced, by Local Authorities under their Jurisdiction, of those provisions of Regulation XI. of 1825, which recognize the proprietary rights of those Zemindars, to whose Estates alluvial accretions may attach themselves, to the soil thus created, direct me to communicate the following general observations and orders upon the subject.

2. In the permanently settled provinces, all land of alluvial formation appertains to the proprietor of the estate to which a change in the channel of the river has added it,—except when, as contemplated in Clause 3, Section 4, of the Regulation in question, it may be an island separated from the main land by a channel not fordable "at any season of the year,"—or when it may have accrued to an estate or waste tract, the zemindaree title of which is vested in Government. And the Sudder Board request your special attention, and that of your subordinates, to that part of Clause 1, of the Section above cited, which lays down, that the right of the party, thereby recognized as proprietor, is exactly co-equal, as regards the land of new formation,* with that by which he holds the estate to which the alluvion has attached itself, whilst, at the same time, the concurrent lien of the state upon its share of the produce of all land formed subsequently to the date of the permanent settlement is declared with equal distinctness.

3. It follows, therefore, that all proprietors,—circumstanced as above stated,—whether they have, or have not, disputed the claim of the Revenue Authorities to fix an assessment upon newly formed lands of the description contemplated by Clause 1, Section 4, Regulation XI. of 1825,—have a right to admission to terms of permanent engagement, whenever they may think fit to demand it; unless, indeed, the alluvion have been let out in farm, for a specified term, in consequence of their recusance, in which case, as well as while the lands may be held khas, they are, of course, entitled to Malikanah. It is only necessary to add, that the injunctions of the Honourable the Court of Directors against permanent settlements of lands at the disposal of Government, refer exclusively to cases where no party may possess a legal claim to such immunity; and that the Right Honourable the Governor General in Council has expressed himself strongly averse to the conclusion of temporary arrangements with persons, upon whom the law has conferred the unqualified right above alluded to.—*Letter from the Sudder Board of Revenue to the Revenue Commissioners. Cir. Ord. S. B. R. No.* 12, *April* 30, 1833.

* See Clauses 1 and 2, Section 3, Regulation II. 1819.

SECTION XXIII.

Puteetabady and Jungleboory Talooks.

Also to lands included within talooks of a particular description.

The same principle* shall likewise be deemed applicable to all lands, which though included at the period of the permanent settlement within the limits of talooks held by individuals under special pottahs from the Collector, such as the puttetabady and jungleboory talooks in the districts of the 24-Pergunahs and Jessore, may not have been permanently assessed at the above-mentioned period; provided, however, that in respect to such lands, if in the possession of the original pottah holder, or his legal representative, the conditions of the pottah in regard to the assessment of the land included within the limits specified in that instrument, shall be strictly maintained.—*Reg.* II. 1819, *Sect.* 3, *Cl.* 3.

Proviso.

SECTION XXIV.

Sunderbunds.

The Sunderbunds declared the property of the state, and Government competent to make grants and to take measures for its clearance.

The uninhabited tract known by the name of the Sunderbunds has ever been, and is hereby declared still to be, the property of the State: the same not having been alienated or assigned to zemindars or included in any way in the arrangements of the perpetual settlement,—It shall therefore be competent to the Governor General in Council to make, as heretofore, grants, assignments and leases of any part of the said Sunderbunds, and to take such measures for the clearance and cultivation of the tract as he may deem proper and expedient. All parties to whom such grants, leases or assignments shall have been made, or to whom they may hereafter be made, shall be entitled to hold or to take possession of any tract of Sunderbund jungle so granted or assigned, without question or opposition, and all public officers shall aid and assist the same. Provided also, that if any zemindar, talookdar, or other Sudder Malgoozar, or any other person owning and occupying or collecting the rent or revenue of cultivated land in the neighbourhood of the land so granted, leased or assigned, shall sue in any Court of Adawlut, or before a Special Commissioner, under this Regulation, to contest the validity of the title or the right of possession of any such lessee or grantee, under such grant, lease or assignment, then if the land aforesaid shall be proved to be, or to have been, or be not denied to be or to have been,

Parties obtaining grants to take possession, and public officers to aid and assist them.

Persons deeming themselves aggrieved by such grants, how to proceed.

* The Clause here referred to, Cl. 1, is to be found under the head of Towfeer.

when so granted, leased, or assigned within the limit of the unoccupied jungle so named and described, the suit shall be dismissed with costs. Provided however, that if any Zemindar, Talookdar, or other person aforesaid, shall claim to possess a valuable interest in any part of the Sunderbunds, by virtue of authority to collect money or other valuable thing from the persons engaged in gathering wax, or cutting wood, or obtaining other jungle products of the tract, or by virtue of any other similar privilege or advantage which may have been recognized as part of the assets, on which the assessed Revenue of his Zemindaree, Talookdaree, or other tenure was adjusted at the time of farming the perpetual settlement of the district, and the collection of which was not subsequently stopped and due compensation made, under the rules relative to the collection of Sayer Revenue, or other similar arrangement, such Zemindar, Talookdar, or proprietor, shall be entitled to receive from Government compensation for any diminution in the value of such interest and advantage consequent on the arrangements adopted for the cultivation of the Sunderbunds; the same being duly established, after an investigation conducted under the rules of Regulation II. 1819, as modified by this Regulation.—*Reg.* III. 1828, *Sect.* 13, *Cl.* 1.

Parties claiming right to derive revenue from persons engaged in gathering or collecting jungle produce in the Sunderbunds, entitled to compensation from Government on proving right.

Boundaries of the Sunderbunds how to be determined.

The boundary of the Sunderbund jungle shall be laid down by accurate survey, as determined on the spot by the Commissioner of the Sunderbunds, and any Zemindar, Talookdar, or party interested, shall be entitled, on application made through the Commissioner, and on payment of the charge of preparing the same, to receive a copy of the Survey Map, or of any part of the same, with the boundary marked there as so determined, together with a copy of the Commissioner's proceedings on the subject. Any party deeming his right injured by the demarcation so laid down, shall be at liberty, at any time within three months from the date of the Commissioner's proceeding fixing the same, (which proceeding shall always be held and published on the spot,) to contest the same by petition to a Special Commissioner under this Regulation, having local jurisdiction for the time being (or if no such jurisdiction exist, to the ordinary Courts of Justice, by which the case is cognizable,) praying further investigation; provided that no plea of objection against the line of demarcation laid down shall be heard or admitted, excepting only such as shall declare and offer proof that at the time of survey a speci-

Parties injured by such demarcation how to proceed, and Commissioners and Courts how to determine such cases.

fic quantity of land, or land with defined limits, was in the occupation of the Petitioner cleared and under cultivation, which, by the line of demarcation adopted, is placed within the Sunderbund tract belonging to Government. Every such application so made shall be regarded as a claim to hold the tract claimed free of the public assessment, and shall be investigated and decided under the rules of Regulation II. 1819, as modified by this Regulation.—*Reg.* III. 1828, *Sect.* 13, *Cl.* 2.

SECTION XXV.

Of Land in the possession of no one.

Collectors, &c. if of opinion that any tract of land belongs to Government and that no individual has bona fide possession thereof, to require by a notification the attendance before him of all claimants within a given period.

Whenever a Collector or other officer exercising the powers of Collector shall be of opinion that any tract of Land belongs to Government, and that no individual has bonâ fide possession thereof, it shall be competent to him, by a notification, to be stuck up in his Kutcherrie, in the Zillah Court and in the Kutcherrie of the Canoongoe, Moonsiff, or Thanadar, to whose jurisdiction the land in question may belong or adjoin, to require all claimants to the same to appear before him, within a reasonable time to be fixed by the Board of Revenue, not being less than six weeks from the date of such notification; and on the appearance of such claimants to proceed to investigate their claims in the manner prescribed by Regulation II. 1819, for investigations relative to the liability of lands to be assessed as herein modified. Provided further that, if the Collector or other Officer aforesaid shall decide that none of the claimants have bonâ fide possession of the lands in question, and his decision shall be affirmed by the Board of Revenue, the said lands shall be at the disposal of Government, until the same shall be adjudged to be private property by a decree of Court on a regular suit. Provided also that all such suits, if preferred by one of the claimants before the Collector, shall be dismissed with costs, unless instituted within six weeks of the date on which the Board may affirm the decision of that Officer, and that the rule contained in Cl. 2, Sect. 13, Reg. II. 1819, shall be strictly applied to such suits: Nor shall any such suit be admitted on the part of any person who may not have appeared before the Collector pursuant to notice unless he shall be able to shew good and sufficient cause for his non-appearance and shall apply for permission to sue within six weeks of his being informed of the Board's decision: Provided further, that

And on the appearance of such claimants to proceed in the investigation of the claims in the mode prescribed by Regulation 2, 1819.

Proviso in case no person has bona fide possession of the land.

Further proviso

if the party shall not prosecute his suit within six weeks of being permitted to sue, the suit shall be dismissed with costs.—*Reg.* IX. 1825, *Sect.* 5, *Cl.* 12.

SECTION XXVI.

Invalid Jaygeer Establishment.

Rules regarding Invalid Jaygeers in Bengal, Behar, and Orissa, in 1793.

Section 33, Regulation XLIII. 1793, to continue in force.

1. Section 33, Regulation XLIII. 1793, is hereby declared to remain in force.—*Reg.* I. 1804, *Sect.* 27.

Rules in the preceding sections not applicable to the invalids who accepted of double portions of lands under the resolutions of the 18th February, 1789, and 24th December, 1790.

2. No part of the rules in the preceding Sections of this regulation are to be considered applicable to the invalids, who have accepted of double portions of land under the resolutions of the Governor General in Council, passed on the 18th February 1789, and the 24th December 1790. Those invalids are dispersed in different parts of the country, receive no pay, are under no military controul, and are entirely unconnected with the service. They are to be considered as tenants of the landholders in whose estates they are settled, and are subject to the jurisdiction of the Civil and Criminal Courts of judicature, in the same manner as other individuals. To secure them and their heirs in the possession of the lands which have been made over to them, the Collectors are to apply to the zemindars to grant them pottahs confirming the land to them and their heirs as pottah talooks, agreeably to the terms of the abovementioned regulations, under which they received the lands, and which, as far as they regard the provinces of Bengal, Behar, and Orissa, are hereafter inserted as the rules by which all questions regarding any such grants as may have been made, are to be decided.—*Reg.* XLIII. 1793, *Sect.* 33, *Cl.* 1.

Invalids allowed the portions of land herein specified upon taking a discharge from the service.

3. Regulations of the 18th February 1789, Article 1st. Such invalid sepoys and native troops now at Monghyr, and all who shall hereafter be invalided, as may be desirous of receiving grants of waste land in lieu of the pay allowed them by Government, upon taking a final discharge from the service, shall be entitled to the same in the following proportions, according to their rank:

	Begahs.
Commandants of infantry, and russaldars of cavalry,	600
Subahdars of ditto, and 1st Jemadar of ditto, ...	400
Jemadars of ditto, and 2nd Jemadar of ditto, ...	200
Havildar of ditto, and 1st Duffadars of ditto, ...	120

Naiks of infantry, and 2nd Duffadars of cavalry, ...	100
Sepoys and Troopers, ...	80

Serangs, as Jemadars.
Tindals, as Havildars.
Cossobs, as Naiks.
Lascars, as Sepoys.

—*Reg.* XLIII. 1793, *Sect.* 33, *Cl.* 2.

4. The lands shall be granted either in sircar Behar, Shahabad, or Rotas, and in such villages as each individual may point out.—*Reg.* XLIII. 1793, *Sect.* 33, *Cl.* 3.

Lands to be granted in Behar, Shahabad or Rotas, wherever the invalids may point out.

5. Should any objection occur to the Collectors of the above districts to granting waste lands to any individual in the village which he may fix upon, they are to allot lands to him in some of the villages most contiguous thereto, and to the granting of which no objection exists.—*Reg.* XLIII. 1793, *Sect.* 33, *Cl.* 4.

Collectors how to proceed if Lands cannot be procured in the villages which the invalids may point out.

6. Waste lands are to be granted to the invalids in other districts exclusive of those above-mentioned, in such particular instances as the Governor General in Council may think proper.—*Reg.* XLIII. 1793, *Sect.* 33, *Cl.* 5.

Government may assign lands in other districts besides those specified in article 2d.

7. The Collectors of Behar and Shahabad, are to be directed to make it a rule to select as far as may be in their power, such tracts of waste land for the invalids as may be brought into cultivation with the least difficulty, and at the smallest expence, and the quality of which may be such as to afford a produce adequate to the labour of the tillage; and that they be contiguous to parts of the country now in a state of cultivation, in order that the invalids may have an opportunity of procuring with greater facility such assistance as may be requisite for enabling them to establish themselves upon their lands.—*Reg.* XLIII. 1793, *Sect.* 33, *Cl.* 6.

Rules to be observed by the collectors in selecting lands for invalids.

8. The original grantee shall hold the lands allotted to him rent-free for life, without being subject to any tax or demand whatever.—*Reg.* XLIII. 1793, *Sect.* 33, *Cl.* 7.

Original grantee to hold the lands rent-free for life.

9. The Sunnuds for the lands so granted in Behar, Rotas, and Shahabad, shall be made out under the official seal and signature of the Collectors of those districts, who are respectively required to keep a Register of all such grants, and to transmit copies thereof annually to the Board of Revenue.—*Reg.* XLIII. 1793, *Sect.* 33, *Cl.* 8.

Sunnuds for the lands by whom to be granted.

Upon the death of an invalid his lands to descend to his heirs upon the terms herein specified.

10. Upon the death of the original grantee, his lands are to be continued to his heirs at law at a fixed jumma, to be assessed by the Collectors aforesaid, in their respective districts, upon an estimate of the actual net produce, after deducting one-tenth therefrom to be annually paid to the zemindar as malikanah by the mocurrery holder, who shall thenceforward be considered upon the same footing as other persons in the province holding lands at a fixed rent.—*Reg.* XLIII. 1793, *Sect.* 33, *Cl.* 9.

Heirs of the invalids to receive the prescribed sunnuds, and to hold the lands whilst they discharge the malikanah and rent.

11. The Collectors above-mentioned, having fixed the rent payable to Government, and the amount of the zemindars malikanah as directed in the preceding article, shall cause mocurrery sunnuds to be drawn out and authenticated in the mode prescribed in the seventh article, in the name of the heirs of the deceased, who shall accordingly hold the said lands in perpetuity, so long as they shall continue to discharge the rent and malikanah with which they may be so assessed.—*Reg.* XLIII. 1793, *Sect.* 33, *Cl.* 10.

Terms on which the heirs of invalids who may die within the first five years, are to succeed to the lands of the deceased.

12. If the original grantee shall die within five years from the date of his grant, his heirs shall continue to hold the lands rent-free until the said period of five years from the date of such grant shall have elapsed, at the expiration of which, the lands shall be assessed and held by him as directed in the two preceding articles.—*Reg.* XLIII. 1793, *Sect.* 33, *Cl.* 11.

Consequences attending the non-payment of the rent and malikanah.

13. Should any of the mocurrerydars aforesaid, omit to discharge the amount of the rent of Government, and the malikanah payable to the zemindar, their mocurrery leases, with the rights and privileges thereto annexed, are to be sold to the best bidder for the liquidation of the amount of the demands against them.—*Reg.* XLIII. 1793, *Sect.* 33, *Cl.* 12.

Gratuity in money to be granted to invalids.

14. And in order that the men who may hereafter prefer this provision to the Boglepore establishment, may be the better enabled to provide themselves with the implements of husbandry, and the means of cultivating the lands assigned to them, it has been further agreed to grant to the several ranks a gratuity in money in the following proportions:—

To each rank entitled to receive	600 Begahs,	Sa. Rs.	150
ditto	ditto 400	ditto	100
ditto	ditto 200	ditto	50
ditto	ditto 120	ditto	30
ditto	ditto 100	ditto	20

To each rank entitled to receive 80 Begahs, Sa. Rs. ... 15 —*Reg.* XLIII. 1793, *Sect.* 33, *Cl.* 13.

Landholders not to be subject to the payment of any increase of revenue to government for the rent or malikanah herein specified.

15. Regulation of the 24th December, 1790. To obviate any objections which the landholders may entertain to the allotment of waste lands to invalids, the whole amount of the fixed jumma to be assessed upon such lands after the death of the original grantee, agreeably to the Regulations of the 18th February, 1789, shall belong to the proprietor of the village in which such lands may be situated, and he shall not be subject to any additional demand on the part of Government on account thereof, during the term of the engagements that may exist between him and Government at the time that the lands so granted may become liable to the payment of such jumma.—*Reg.* XLIII. 1793, *Sect.* 33, *Cl.* 14.

Rules regarding Invalid Jaygeers in Benares.

16. On the 18th February, 1789, and the 24th December, 1790, certain rules were passed for granting lands to discharged native invalid officers, and private soldiers, in the province of Benares. The invalids to whom grants of land have been made under these rules, are dispersed in different parts of the country, receive no pay, are under no military controul, and are entirely unconnected with the service. They are the tenants of the zemindars of whom they hold the lands, and are subject to the jurisdiction of the civil and criminal Courts of Judicature, in the same manner as other individuals. To secure to the holders of these grants the rights and privileges which they derive under their tenures, such part of the rules above-mentioned, as come within the description of the rules and orders specified in Section 2, Regulation XLI. 1793, are hereby enacted into a Regulation.—*Reg.* XLIII. 1795, *Sect.* 1.

Invalids allowed the portion of land herein specified, upon taking a discharge from the service.

17. Rules passed on the 18th February, 1789. The invalid native troops now at Monghyr, and those who shall be hereafter invalided, who may be desirous of receiving grants of waste land, in lieu of the pay allowed to them by Government on the Boglepore establishment, upon taking a final discharge from the service, shall be entitled to the same in the following proportions, according to their ranks:

	Begahs.
Commandants of infantry and Russaldars of cavalry,	600
Subahdars of ditto, and 1st Jemadars of ditto, ...	400

	Begahs.
Jemadars of infantry and 2nd Jemadars of cavalry,	200
Havildars of ditto, and 1st Duffadars of ditto, ...	120
Naiks of ditto, and 2nd Duffadars of ditto, ...	100
Sepoys and Troopers, ...	80

Serangs, as Jemadars.
Tindals, as Havildars.
Cossobs, as Naiks.
Lascars, as Sepoys.

-*Reg.* XLIII. 1795, *Sect* 2, *Cl.* 1.

Lands may be granted where the invalids may point out.

18. The lands shall be granted in such villages as each individual may point out.—*Reg.* XLIII. 1795, *Sect.* 2. *Cl.* 2.

Exception.

19. Should any objection occur to the resident at Benares to granting waste lands to any individual in the village which he may fix upon, he is to allot lands to him in some of the villages most contiguous thereto, and to the granting of which no objection may exist.—*Reg.* XLIII. 1795, *Sect.* 2, *Cl.* 3.

Rules to be observed in selecting lands for invalids.

20. The resident at Benares is directed to make it a rule to select as far as may be in his power, such tracts of waste land for the invalids as may be brought into cultivation with the least difficulty, and at the smallest expense, and the quality of which may be such as to afford a produce adequate to the labour of the tillage; and he is to give a preference to lands contiguous to parts of the country now in a state of cultivation, in order that the invalids may have an opportunity of procuring with greater facility, such assistance as may be requisite for enabling them to establish themselves upon their lands.—*Reg.* XLIII. 1795, *Sect.* 2, *Cl.* 4.

Original grantee to hold the lands rent free for life.

21. The original grantees shall hold the lands allotted to them rent-free for life, without being subjected to any tax, or demand whatever.—*Reg.* XLIII. 1795, *Sect.* 2, *Cl.* 5.

Sunnuds for the land by whom to be granted.

22. The sunnuds for the lands so granted in the zemindarry of Benares, are to be made out under the seal of the rajah, with a perwannah of confirmation under the seal and signature of the resident, who is required to keep a Register of all such grants, and to transmit copies thereof annually to the Governor General in Council.—*Reg.* XLIII. 1795, *Sect.* 2, *Cl.* 6.

Upon the death of an invalid, his lands to descend to his heirs upon the terms herein specified.

23. Upon the death of the original grantee, his lands are to be continued to his heirs at law at a fixed jumma, to be assessed by the resident with the consent of the rajah, upon an estimate of the net annual produce, after deducting one-tenth

therefrom to be annually paid by the mocurrery holder to the zemindar as malikanah, or to Government, if the estate or talooka be amauny, such mocurrery holders shall thenceforward be considered upon the same footing as other persons in the province holding lands at a fixed rent.—*Reg.* XLIII. 1795, *Sect.* 2, *Cl.* 7.

24. The resident having fixed the rent to be paid to Government, and the amount payable to the zemindar as malikanah, or the consideration to the same amount to Government, as directed in the preceding article, shall cause mocurrery sunnuds to be drawn out and authenticated in the mode prescribed in Clause 6, in the name of the heirs of the deceased, who shall accordingly hold the said lands in perpetuity as long as they shall continue to discharge the rent and the malikanah, or the consideration to the same amount to Government, (according as the lands may be amauny or otherwise,) with which they may be so assessed.—*Reg.* XLIII. 1795, *Sect.* 2, *Cl.* 8.

Heirs of the invalids to receive the prescribed Sunnuds, and to hold the lands whilst they discharge the malikanah and rent.

25. If the original grantee shall die within five years from the date of the grant, his heirs shall continue to hold the lands rent-free until the said period of five years from the date of such grant shall have elapsed; at the expiration of which, the lands shall be assessed and held by them as directed in the two preceding Clauses.—*Reg.* XLIII. 1795, *Sect.* 2, *Cl.* 9.

Terms on which the heirs of invalids who may die within the first five years, are to succeed to the lands of the deceased.

26. Should any of the mocurrerydars aforesaid omit to discharge the amount of the Government's rent and the malikanah payable to the zemindar, or the consideration to Government, (according as the lands may be amauny or otherwise,) their mocurrery leases, with the rights and privileges thereto annexed, are to be sold to the best bidder for the liquidation of the amount of the demands against them.—*Reg.* XLIII. 1795, *Sect.* 2, *Cl.* 10.

Consequences ensuing from the non-payment of the rent or malikanah.

27. In order that the men who may be placed on this establishment may be the better enabled to provide themselves with the implements of husbandry, and the means of cultivating the lands assigned to them, a gratuity in money shall be granted to them in the following proportions:

Gratuity in money to be granted to invalids.

To each rank entitled to receive	600 Begahs,	Sa. Rs.		150
*ditto	ditto	400	ditto ...	100
ditto	ditto	200	ditto ...	50
ditto	ditto	120	ditto ...	30
ditto	ditto	100	ditto ...	20

To each rank entitled to receive 80 Begahs, Sa. Rs. 15 —*Reg.* XLIII. 1795, *Sect.* 2, *Cl.* 11.

Landholders not to be subject to the payment of any increase of revenue to government for the rent herein specified.

28. Rule passed on the 24th December, 1790. To obviate any objections which the land-holders may entertain to the allotment of waste lands to invalids, the whole amount of the fixed jumma to be assessed upon such lands after the death of the original grantee, shall belong to the proprietor of the village in which such lands may be situated, and he shall not be subject to any additional demand on the part of Government on account thereof, during the term of the engagements that may exist between him and Government, at the time that the lands so granted may become liable to the payment of such jumma.—*Reg.* XLIII. 1795, *Sect.* 2, *Cl.* 12.

Annual register to be forwarded by the collector.

29. The annual register directed in Clause 6, to be kept by the resident and forwarded to the Governor General in Council, is from the date of the abolition of the residency, to be prepared by the Collector, and forwarded by him to the Board of Revenue.—*Reg.* XLIII. 1795, *Sect.* 3.

No lands to be granted in future under the forego-ing articles.

30. No provision in land shall be granted to invalids in future under the rules contained in Section 2, which are to be considered as applicable to such grants only as have been already made in conformity to them.—*Reg.* XLIII. 1795, *Sect.* 4.

Revised Rules regarding Invalid Jaygeer and Pension Establishment.

Regulation XLIII. 1793, and Regulation LVI. 1795, rescinded. Exceptions.

31. Regulation XLIII. 1793, and Regulation LVI. 1795, with the exceptions hereafter mentioned, are hereby declared to be rescinded, and the following rules are enacted to take effect from the present date.—*Reg.* I. 1804, *Sect.* 2.

To what Zillahs the establishment of invalid villages, and the appropriation of lands for their support are to be confined. No tannah shall be established without the previous sanction of government.

32. The establishment of villages for invalids, and the appropriation of lands for their support, shall be henceforth confined to the zillahs of Behar, Shahabad, Sarun, Tirhoot, Bhaugulpore, and Chittagong; and no tannah shall be hereafter established without the previous sanction of the Governor General in Council, to be obtained through the Board of Revenue.—*Reg.* I. 1804, *Sect.* 3.

Board of Revenue vested with the general superintendence of invalid and pension establishment.

33. The general superintendence of the invalid jaygeer and Pension establishments, is hereby vested in the Board of Revenue.—*Reg.* I. 1804, *Sect.* 4.

Immediate super-

34. The immediate superintendence of the invalid jaygeer

establishments shall be entrusted to officers, who shall be denominated Regulating Officers. One officer shall be appointed to superintend the jaygeer tannahs in the zillahs of Bhaugulpore and Tirhoot: One officer shall be appointed to superintend the tannahs in the zillah of Behar: One officer shall be appointed to superintend the tannahs in the zillahs of Shahabad and Sircar Sarun: and one officer shall be appointed to superintend the tannahs in the zillah of Chittagong.—*Reg.* I. 1804, *Sect.* 5.

Intendence committed to Officers denominated regulating Officers.

Districts where they are to be stationed.

35. The regulating officer in each district shall be subject to, and shall act under the orders of the Collector and of the Board of Revenue; and all matters relative to the duties of the said officers which it shall be proper to submit for the information or orders of the Governor General in Council, shall be communicated by the Collector of the zillah to the Board of Revenue, who shall submit the same to the Governor General in Council.—*Reg.* I. 1804, *Sect.* 6.

Regulating officers to be subject to the orders of the Collectors, and the Board of Revenue.

All matters to be submitted to government through the Collectors and the Board of Revenue.

36. The distribution of the lands in tannahs shall be made by the regulating officers under the orders of the Collector, agreeably to the instructions with which they shall be furnished; and the Courts of judicature shall not interfere in any manner, or receive any complaints or representations whatever regarding such distribution.—*Reg.* I. 1804, *Sect.* 17.

Distribution of lands to be made by the regulating Officers under the orders of the Collector.

Courts of Judicature not to interfere nor receive complaints regarding such distribution.

37. The following are the proportions of lands, which shall be granted to the several descriptions of invalids:

Proportion of lands to be granted to invalids.

	Begahs.
A Subahdar of infantry and cavalry, ...	100
A Jemadar of infantry and cavalry and Sarang, ...	50
Havildar of infantry and cavalry and Tindal, ...	30
Naik and Cossob, ...	25

—*Reg.* I. 1804, *Sect.* 7.

38. On notification being made to the Collector of the number and description of invalids admitted on the jaygeerdar establishment, the Collector shall immediately proceed to select and obtain the quantity of land required for them in the manner and upon the conditions hereafter specified.—*Reg.* I. 1804, *Sect.* 8.

Collector to select lands for invalids on notice given to him.

39. When a Collector shall have received information of a spot of waste land, calculated for the purpose of establishing a tannah; or for the accommodation of an invalid, in one of the tannahs already established; he shall make a proposal in writ-

Collector to make proposals in writing to the proprietors of lands selected for the invalids, containing

the following stipulation.

ing to the proprietor of the land to take a lease of it in portions or entire, according as it may be wanted for one or more invalids, on the part and in the names of the invalids respectively, and on the terms specified in the following articles.—*Reg.* I. 1804, *Sect.* 9, *Cl.* 1.

Land to continue the property of the proprietor and not to be separated from his estate.

40. The land shall continue the property of the zemindar or other proprietor, and shall not be separated from his estate.—*Reg.* I. 1804, *Sect.* 9, *Cl.* 2.

Pottah to include the julker, bunker and phulker.

41. The pottah or deed of lease, shall include the julker, bunker, and phulker, or all trees and the produce of them, fisheries and pasture land.—*Reg* I. 1804, *Sect.* 9, *Cl.* 3.

Land to be held rent free by the invalids during their lives, and to devolve to their heirs.

42. The invalids shall hold the land free of rent, or any demand whatever during their lives; and after their decease the land shall devolve to their heirs.—*Reg.* I. 1804, *Sect.* 9, *Cl.* 4.

How lands of invalids dying without heirs are to be disposed of.

43. If an invalid shall die without heirs, it shall be left to the option of a fresh man coming upon the establishment, to supply his place in the tannah, upon such fresh man agreeing to take the lands upon the terms to which he would have succeeded to them, had he been the heir of the deceased. If no fresh man will agree to take the lands upon these terms, the lands shall revert to the zemindar or other proprietor, who shall be entitled to dispose of them in such manner as he may think proper.—*Reg.* I. 1804, *Sect.* 9, *Cl.* 8.

Pottah to be obtained from the proprietor for invalids, &c on being put in possession of their lands, or on such lands becoming liable to assessment.

44. Whenever an invalid, or his heir or successor, shall be put in possession of a jaygeer previous to its being charged with the permanent assessment, the regulating officer shall obtain from the proprietor, through the Collector, a separate pottah for such person, which shall express the terms on which he is to hold the land, as specified in the preceding articles. When a jaygeer shall become liable to the permanent assessment, the regulating officer shall obtain from the zemindar, or other proprietor, through the Collector, a pottah in the name of the possessor, specifying the rate of the rent or assessment; the quantity of land; the boundaries of it; and the terms of the tenure as above defined.—*Reg.* I. 1804, *Sect.* 9, *Cl.* 13.

Any other stipulations made between invalids and Zemindars shall be binding on the parties.

45. Any other stipulations which shall be made between the invalids and the zemindar, or other proprietor of land, shall be binding on the parties. All differences between the zemindar, or other proprietor, and the invalids, or their heirs or succes-

sors, respecting the nature of the invalid tenures, shall be decided in the Dewanny Adawlut of the zillah.—*Reg.* I. 1804, *Sect.* 9, *Cl.* 17.

All differences respecting the nature of the tenures to be decided in the Dewanny Adawlut.

46. If the estate, or any part of the estate of a zemindar or other proprietor, in which lands leased to invalids under this Regulation shall be situated, shall be disposed of at public sale, or be transferred, or devolve in any manner to any other person, neither the lease nor the terms of the tenures of the invalids, or their heirs or successors, shall be in any respect affected; but the new proprietor shall be bound by the terms of the deeds in the same manner, as the proprietor who granted them would have been, had he retained the property, notwithstanding any thing that may be expressed to the contrary in Regulation XLIV. 1793, or any other regulation passed on the 1st May, 1793, or on any subsequent date.—*Reg.* I. 1804, *Sect.* 10.

Persons succeeding to an estate, or a part of it, in which any lands may have been leased to Government under this regulation, to abide by the terms of the lease.

47. Whenever invalids shall be established upon lands the property of Government, they shall hold the lands of Government upon the same terms, as invalids settled upon lands belonging to zemindars, or other proprietors of land paying revenue to Government, or upon such other terms as the Governor General in Council shall judge it proper to prescribe, previous to establishing the invalids upon the lands.—*Reg.* I. 1804, *Sect.* 11.

Invalids to hold lands the property of Government upon the same terms as those of individuals.

48. It shall be the duty of the regulating officer to settle, as far as he may be able by his advice and admonitions, all internal affrays, differences, and claims, which may arise between the invalids themselves and between them and other inhabitants of the district, in such manner as shall be deemed equitable; leaving the parties, if his endeavours prove ineffectual, to have recourse to the established Courts of Justice. Provided however, that the rule contained in this Section shall not be construed to empower the regulating officer, to exercise any authority whatever without the limits of the tannahs under his charge.—*Reg.* I. 1804, *Sect.* 13.

Regulating officer to settle as far as possible by his advice all internal affrays, differences and claims.

49. To prevent invalid jaygeerdars from being harassed with law suits, and to enable them to defend or prosecute suits in the Courts of civil judicature, without being obliged to attend in person, or being subjected to trouble and expence, it shall be the duty of the vakeel of Government on the requisi-

Vakeels of Government to plead the causes of invalids free of cost on the requisition of the Collectors.

tion of the Collector to plead the causes of such invalids free of cost.—*Reg.* I. 1804, *Sect.* 14.

Process of civil and criminal courts, to be current in the invalid tannahs. Invalids and all inhabitants of the tannahs to pay obedience thereto, under pain of fine or other punishment.

50. The process of the civil and criminal Courts of judicature and of the Police officers, shall be current, in the invalid tannahs, in the same manner as in other parts of the country; and the invalids and all inhabitants of the tannahs, shall observe a strict obedience thereto, under pain of paying such fine or suffering such punishment, as the Courts are empowered by any regulation passed and printed in the manner directed in Regulation XLI. 1793, to impose or inflict on persons disobeying or resisting their process.—*Reg.* I. 1804, *Sect.* 15.

Jaygeers not to be assigned as security for money borrowed by invalids, nor be answerable for debts contracted by them; jaygeers devolving to heirs of invalids, to be answerable for debts contracted by such heirs.

51. Jaygeers, whilst possessed by invalids, shall not be assigned as security for money borrowed by them, nor be answerable after their decease for debts contracted by them. But when jaygeers shall devolve to the heirs or successors of invalids, such jaygeers shall be answerable for debts contracted by such heirs and successors.—*Reg.* I. 1801, *Sect.* 16.

Invalids to be present at the period of inspection under pain of being struck off the establishment.

52. The invalids shall be present at their respective tannahs at the periods of inspection, in failure of which they shall be struck off the establishment, excepting in cases in which the invalids shall be absent with permission, or from sickness, or other unavoidable cause which shall appear satisfactory to the regulating officer and to the Collector. The Courts of judicature shall not receive any complaints or representations which shall be presented to them by any invalid for having been struck off the establishment under this Section.—*Reg.* I. 1804, *Sect.* 18.

Courts of Judicature not to receive any complaints from invalids so struck off on that account.

Rules in Section 9, to be considered immediately applicable to lands which shall be henceforward granted to invalids.

53. The rules contained in Section 9, shall be considered to be immediately applicable to such lands as shall henceforward be granted to invalids. With a view however to ascertain and fix the tenure of the occupants, and to protect the rights of the proprietors; and to establish as nearly as may be practicable, an uniformity of system throughout the invalid tannahs, the Collectors shall endeavour to conclude agreements with the zemindars, rendering all lands now held by invalids, (excepting the lands granted to invalids under the Regulations of the 18th February 1789), subject to the conditions specified in Section 9, of this Regulation. It shall likewise be the duty of the Collectors to new model the tannahs as far as relates

The Collectors to new model the

to the proportions of land, and to fix for each invalid now on the establishment, the quota of land assigned for his rank by Section 7. The Collectors shall also extend this rule to the heirs and successors of invalids, who have come into possession of jaygeers; resuming both from invalids and from the heirs and successors of invalids, whatever quantity of land shall appear to have been granted to them exceeding that proportion; excepting where the occupants have brought into cultivation a larger quantity of land than is now fixed for their respective lands, or for the ranks of their ancestors and predecessors; in which cases the occupants shall not be deprived of any part of the land, which is in actual cultivation, but shall continue to possess the whole under the conditions above prescribed. Provided however that nothing contained in this Section shall be construed to annul or set aside any of the rights of the jaygeerdars, or of the proprietors of the land under any existing engagements, or under the rules contained in Regulation XLIII. 1793, and Regulation LVI. 1795, until the arrangements prescribed in this Section shall with the consent of the zemindars concerned have been carried into complete effect.—*Reg.* I. 1804, *Sect.* 19.

tannahs already established.

To extend this rule to the heirs and successors of invalids.

Nothing contained in this section shall be construed to annul or set aside any of the rites of the jaygeerdars or of the proprietors of land under any existing engagements or rules in Regulation XLIII. 1793, and Regulation LVI. 1793.

54. Whenever a new tannah shall be ordered to be established, or whenever land adjacent to any existing tannah shall be required for invalids, the land shall be completely cleared by the Collector of the zillah. The Collector's estimate of the expense of clearing the land shall include the digging of the necessary wells, the making the necessary embankments of water-courses, and every requisite work for rendering the land fit for immediate cultivation. When the land shall be nearly prepared, the Collector shall give notice to the commandant of Allahabad, or other officer in charge of the invalids for the purpose of having the proper number of native officers dispatched to occupy the land. The Collector's bill for clearing the ground shall be submitted, when the work shall have been finished, to the Governor General in Council through the channel of the Board of Revenue.—*Reg.* I. 1804, *Sect.* 20.

Lands required for the tannahs to be cleared by the collector, and a bill for the expense to be submitted to government through the Board of Revenue.

55. The land required for the residence of an invalid and comprehended within the boundary of his house, garden, and offices, shall be included under a distinct head in the pottah for his jaygheer, and the rate which he is to pay for this portion of land shall be fixed by the Collector at two-thirds of the usu-

Particulars which are to be specified in the pottahs for invalid jaygheers.

al rates of the district for such land.—*Reg.* I. 1804, *Sect.* 21, *Cl.* 1.

Lands required for roads, &c. to be purchased by government and bestowed on the tannah gratis.

56. Any land which shall be required in each village for roads, wells, or other public purposes, shall be purchased by Government, and shall be bestowed on the tannah gratis; the amount of the purchase money shall be inserted in the contingent bill of the Collector.—*Reg.* I. 1804, *Sect.* 21, *Cl.* 2.

Heirs of Jaygheerdars.

Heirs of invalids for the first five years after coming into possession, shall pay malikanah to the zemindar.

57. The heirs of invalids, for the first five years after they shall come into the possession of land, shall pay to the zemindar a sum equal to one-tenth of the produce of the land as malikanah.—*Reg.* I. 1804, *Sect.* 9, *Cl.* 5.

The malikanah to cease after five years and the land to be assessed in the proportion of two fifths of the annual produce.

58. After the expiration of the period of five years, the payment of malikanah shall cease, and the proprietor of the land shall be entitled to rent in the proportion of two-fifths of the annual produce, whether it be in kind or in money, as may be agreed on between the parties concerned in the adjustment. This rent shall not be liable to any variation, and shall be paid to the zemindar, or other proprietor.—*Reg.* I. 1804, *Sect.* 9, *Cl.* 6.

Collectors to adjust the rent payable by the heirs of invalids, under the control of the Board of Revenue.

59. On the expiration of the periods specified in Clause 6, Section 9, Regulation I. 1804, it shall be the duty of the Collectors of the districts, in which invalid tannahs are situated, to adjust the rent payable by the heirs of invalids, on account of the jaygheers held by them to the zemindars, under the supervision and controul of the Board of Revenue.—*Reg.* XI. 1808, *Sect.* 2.

The rules for the guidance of the Collectors in making such adjustment.

60. In making such adjustment, the Collectors shall be guided as nearly as possible by the spirit of the provisions noticed in the Preamble to this Regulation, that is, the zemindars shall be entitled to receive a net rent equal to two-thirds of the amount paid of other lands, in the district of the same description and quality, according to the best information which the Collectors may be able to obtain on that point, and the adjustment so made, shall be considered binding between the zemindars and the above description of tenants, so long as the lands shall be occupied by the latter.—*Reg.* XI. 1808, *Sect.* 3.

Preamble.

61. In Clause 6, Section 5, Regulation XLIII. 1793,* it

* The whole of this Regulation, with the exception of Section 33, is repealed.

was enacted with respect to the rents payable by the heirs of invalid jaygheerdars, "that after the expiration of the period of "five years, the payment of one-tenth as malikanah prescribed "in the fourth article, shall cease, and the Collector shall as- "sess the lands with a net rent equal to two-thirds of the rent "paid for other lands in the district of the same description "and quality." In Clause 6, Section 9, Regulation I. 1804, it was enacted, that "after the expiration of the period of five "years, the payment of malikanah shall cease, and the pro- "prietor of the land shall be entitled to rent in the proportion "of two-fifths of the annual produce, whether in kind or mo- "ney as may be agreed on between the parties concerned in "the adjustment." The latter provision was not intended to increase the rate of rent payable by the heirs of invalids to the zemindars, for which indeed no motive could exist, the lands in question not being included in the assets on which the jumma payable by the zemindars to Government had been adjusted. The modification in question, was adopted on the supposition, that a difficulty might occur in ascertaining the sum which would be "equal to two-thirds of the amount "paid for other lands, in the district of the same description and "quality;" and also on the supposition, that the application of the more definite rule contained in Clause 6, Section 9, Regulation I. 1804, would afford nearly the same result as the former provision, but which, from information since submitted to Government, the Governor General in Council has reason to believe, is not always the case. The following rules have accordingly been enacted, to be in force from the time of their promulgation in all the districts in which invalid tannahs have been or may be established.—*Preamble to Reg.* XI. 1808.

Courts of justice to be guided by such adjustment in the decision of suits preferred by zemindars against the heirs of invalids.

62. The Courts of Justice shall be guided by the adjustment made by the Collectors, under the controul of the Board of Revenue, in the decision of all suits, which may be preferred by zemindars against the heirs of invalids to rent, on account of their jaygeers; and no claim of that nature shall be deemed valid, until it shall have been adjusted under the preceding Section, by the Collectors. Should however, the Collectors fail to make the requisite adjustment in due time, the zemindar who may suffer any loss or inconvenience from that cause, will be of course at liberty to represent the circumstance to the Board of Revenue, who are hereby required to give the

How zemindars are to proceed in case of such adjustment not being made in due time.

earliest attention to complaints of that nature.—*Reg.* XI. 1808, *Sect.* 4.

Terms upon which heirs of invalids who die within seven years, are to hold the lands.

63. If the original grantee shall die within seven years from the date of his being put in possession of his lands, his heir shall continue to hold them rent-free until the expiration of such period of seven years, from which time the lands shall become subject to the rules contained in the two preceding articles, in the same manner as if the heir had then first succeeded to them, and his ancestor had held them for a term exceeding seven years.—*Reg.* I. 1804, *Sect.* 9, *Cl.* 7.

In what cases and to whom the heirs of invalids are to be at liberty to dispose of their lands.

64. If an invalid shall die, and leave heirs who are not willing to receive the lands upon the foregoing terms, or are incapable of cultivating them, the heirs shall be allowed to dispose of their rights to any of the invalids belonging to the tannah, the purchaser becoming subject to all the conditions in the article regarding such heirs.—*Reg.* I. 1804, *Sect.* 9, *Cl.* 9.

Malikanah and rent how to be collected.

No increase of revenue to be levied on account thereof.

65. The malikanah and rent to which the lands are declared liable in the fourth and fifth articles, (Clauses 5 and 6,) shall be recovered from the incumbent in the same manner as from his other renters and ryots. No increase of revenue shall be levied from the zemindar or other proprietor, on account of the rent or malikanah, which shall become payable to him from the lands of the invalids.—*Reg.* I. 1804, *Sect.* 9, *Cl.* 12.

Proprietor to station an agent at each tannah, to keep accounts of the rent and malikanah, and to take care of his interests.

66. The zemindars or other proprietors, shall be allowed to station a mutsuddie in the tannahs, to take copies of the accounts of the rent and malikanah which may become due to them, and to inform them of every infringement of the terms, under which the lands in the tannahs are held, as specified in the agreement between them and the zemindar or proprietor. —*Reg.* I. 1804, *Sect.* 9, *Cl.* 14.

Widows being heiresses may remarry without forfeiting the jaygheers, which are to devolve to their heirs at law.

67. Widows being heiresses to the jaygheers of their husbands, shall be allowed to marry whom they please without forfeiture of their jaygheers, which, after their death, shall devolve to their heirs at law.—*Reg.* I. 1804, *Sect.* 12.

Heirs of invalids liable to forfeit their lands if they neglect to cultivate them for one year.

Such lands to be transferred to some other invalids, or to revert to the proprietor.

68. If an heir to a jaygheer shall without reasonable cause leave the land uncultivated for one year after he may claim it, and shall have been ordered to be put into possession, the land shall be deemed forfeited, and shall be transferred to any other invalid, or heir or successor of an invalid, who will take it upon the same terms as he would have been entitled to hold it had he been the heir of the deceased. In the event of no invalid a-

greeing to take the jaygheer upon the above terms, the jaygheer shall revert to the zemindar or other proprietor, as in the cases provided for in the Seventh Article (Clause 8).—*Reg.* I. 1804, *Sect.* 9, *Cl.* 10.

Rules regarding arable lands not brought into cultivation by the time they become liable to assessment.

69. Upon the arrival of the period for assessing lands which shall have devolved to the heirs or successors of invalids, such parts of the lands as might have been cultivated, and are not brought into cultivation, shall be resumed; and the zemindar or other proprietor shall be at liberty to grant pottahs for them to whomsoever he shall think proper, unless the person who shall have omitted to cultivate them, shall enter into an engagement to bring them into cultivation in the course of one year, calculating from the commencement of the year in which they became liable to the final assessment, and in all future years, to pay for them as cultivated lands.—*Reg.* I. 1804, *Sect.* 9, *Cl.* 11.

The authority of the regulating officer to be withdrawn when all the lands in a tannah shall become liable to a permanent assessment, and the tannah to be considered upon the same footing as other villages in the zemindarry.

Heirs and successors of original grantees to hold the land according to their pottahs.

70. Whenever all the lands included within the limits of a tannah shall have become liable to the permanent rent or assessment specified in the Fifth article (Clause 6,) Government shall withdraw the authority of the Regulating officer, and the tannah shall be considered to be upon the same footing as other villages in the zemindary or estate; the heirs and successors of the original grantees continuing to hold their lands upon the terms specified in their pottahs.—*Reg.* I. 1804, *Sect.* 9, *Cl.* 15.

In what case the jaygheer is to devolve to the zemindar, who shall be at liberty to dispose of it as he may think proper.

71. After the officers of Government shall have been withdrawn from a tannah in the case specified in the Fifteenth Article, if an invalid, or his heirs or successors, shall die without heirs and intestate, the jaygheer, or such parts of it as may have been held by the deceased, shall devolve to the zemindar or proprietor, who shall be at liberty to grant a pottah for it, or to dispose of it to such person, and upon such terms, as he may think proper.—*Reg.* I. 1804, *Sect.* 9, *Cl.* 16.

Commissioner to superintend the Invalid Jaygheers, subject to the Sudder Board, who will issue constructions in regard to escheats.

The immediate superintendance of the Invalid Jaygheer establishments shall be vested in the Local Commissioners, subject to the general controul of the Sudder Board, who will, from time to time, issue such instructions as they may judge proper, in regard to the settlement or disposal of any Jaygheer lands which may escheat to Government.—*Gen. Rules of Prac. Com. of Rev.*—*Rule* LII.

The following form of Report, for Settlements of resumed Jaygheers of Invalids, was forwarded to the Commissioner of Bhagulpore, by the Sudder Board, under date the 7th October, 1834, No. 476.

Form.

Statement exhibiting results of Assessment of certain Invalid Jaygheer Lands, situated in Thannah A, Pergunnah B, Zillah C, under Regulation I. of 1804, and IX. of 1808.

Number.	Name of heir and Name and Rank of Original Grantee.	Name of Village or Muhal in which land is situated.	Quantity of land.	Land cultivated or culturable.	Land waste and incapable of cultivation.	Quantity of land cultivated and culturable, and rate of rent per begah, according to rates paid by neighbouring ryuts.				Total land and rent.	Deduction of one-third of rent allowed to heirs.	Remaining rent of fixed assessment.
						1st Sort.	2nd Sort.	3rd Sort.	4th Sort.			
			Bs.	Bs.	Bs.	B. 10 to rs. 1 4	B. 5 to 1 r.	Bs. 20 at Ans. 12	Bs. 3 to Ans. 8	Bs. 38	R.A.G.C.*	R. A. G. C.*
	A. heir of B. Jemadar.	Bikrampore.	40	38	2	Rs. 12 8	Rs. 5	Rs. 15	Rs. 1 8	Rs. 34	11 5 6 2	22 10 13 2

—*Cir. Ord. S. B. R. No.* 227.

* Gundas and Cowries are to be adjusted in pie: if less than half a pie, the fraction to be relinquished; if half, or more, to be entered as one pie.—C. O. 8th April, 1836.

Authority of the Sudder Board of Revenue to confirm Permanent Settlements of Jaygheers of Invalids.

I am directed to acknowledge the receipt of your letter, No. 56, dated the 27th ultimo, and to request that you will inform the Sudder Board, in reply, that the Honourable the Governor of Bengal considers them competent to confirm all settlements concluded in conformity with the provisions of Regulation I. of 1804, and XI. of 1808. Under this construction all Settlements of the same description, which the Board have already confirmed, are sanctioned.—*Letter from the Secretary to Govt. of Bengal, to the Secretary, Sudder Board, No.* 410, *dated* 24*th March,* 1835.

I am directed by the Honourable the Deputy Governor of Bengal to acknowledge the receipt of your Predecessor's Letter, No. 77, dated the 27th ultimo, and to request that you will inform the Board in reply, that Commissioners of Revenue are authorized to confirm in perpetuity settlement of Lands granted in Jaygheer to Invalid Soldiers.—*Letter from the Secretary to the Government of Bengal, to the Secretary, Sudder Board, dated the* 21*st Nov.* 1837.—*Cir. Ord. S. B. R. No.* 82, *Dec.* 22, 1837.

SECTION XXVII.

Limitation of time for the cognizance of rent-free suits.

Limitation of twelve years for commencement of civil suit, prescribed by existing regulations, not applicable to any public claims, instituted, on the part of government, by persons duly authorized.

The limitation of twelve years for the commencement of civil suits, under certain provisions and exceptions, which, in pursuance of former rules and practice, has been continued and prescribed by Section XIV. Regulation III. 1793: Section VIII. Regulation VII. 1795: and Section XVIII. Regulation II. 1803; shall not be considered applicable to any suits for the recovery of the public revenue, or for any public right or claim whatever, which may be instituted by, or in behalf of Government, with the sanction of the Governor General in Council; or by direction of any public officer or officers, who may be duly authorized to prosecute the same on the part of Government.—*Reg.* II. 1805, *Sect.* 2, *Cl.* 1.

All claims on the part of Government, for the cognizance of which no special rule may be in

All claims on the part of Government, whether for the assessment of land held exempt from the public revenue without legal and sufficient title to such exemption, or for the recovery of arrears of the public assessment, or for any other public

right whatever, (the judicial cognizance of which may not have been otherwise limited by some special rule or provision in force) shall be heard, tried, and determined in the several courts of civil Justice, to which the cognizance thereof may properly belong, under the general regulations which have been or may be hereafter enacted, if the same be regularly and duly preferred at any time within the period of sixty years from and after the origin of the cause of action: provided that such cause of action shall not have originated within the provinces of Bengal, Behar, and Orissa, before the 12th August A. C. 1765; or within the province of Benares before the 1st July, A. C. 1775, or within the provinces ceded by the Nawaub Vizier before the 10th November, A. C. 1801; being the periods of the Company's accession to the civil Government of the above provinces respectively.—*Reg.* II. 1805, *Sect.* 2, *Cl.* 2.

force, declared cognizable, under the regulations, if duly preferred within sixty years, from the origin of the cause of action;

Provided the cause of action shall not have arisen before the period of the Company's accession to the Civil Government of the several provinces specified.

CHAPTER II.

PROCESS OF INVESTIGATION AND RESUMPTION.

SECTION I.

Appointment of Collectors to commence investigations.

Preamble. The rules contained in Regulations XIX. and XXXVII. 1793, relative to the resumption of the revenue of lands held free of assessment under illegal or invalid tenures, and the corresponding provisions enacted in subsequent years having been found inadequate to secure the just rights of Government, have from time to time been partially repealed, or modified. Those rules, however, are still in force within several of the districts subordinate to this Presidency, and the Regulations by which they have in other districts been superseded, appear to be in several respects defective. It further appears to be necessary, in order to obviate all misapprehension on the part of the public officers, or of individuals, to declare generally the right of Government to assess all lands, which at the period of the decennial settlement were not included within the limit of an estate for which a settlement was concluded with the owners, not being lands for which a distinct settlement may have been made since the above period, nor lands held free of assessment under a valid and legal title; and at the same time formally to renounce all claim on the part of Government to additional revenue from lands which were included within the limits of estates, for which a permanent settlement has been concluded, at the period when such settlement was so concluded, whether on the plea of error or fraud, or on any pretext whatever, saving of course mehals expressly excluded from the operation of the settlement. With the view therefore of establishing, on proper principles, one uniform course of proceeding in resuming the revenue of lands liable to assessment; so that the dues of Government may be secured without infringement of the just rights of individuals, the following rules have been enacted, to be in force from the date of their promulga-

tion throughout the provinces immediately subordinate to the Presidency of Fort William.—*Reg.* II. 1819, *Preamble.*

Whenever a Collector of revenue, or other officer exercising the powers of Collector, shall have reason to believe that any lands lying within the sphere of his official controul are liable to assessment, either as being held under an invalid tenure free of assessment, or at an inadequate jumma; or as being liable to assessment on the principles stated in Section 3, of this Regulation, he shall report the circumstances to the Board of Revenue, or other authority exercising the powers of that Board, who, should they be of opinion that proper grounds exist for enquiry, shall direct the Collector or other officer aforesaid to enter on an investigation of the case in the manner hereafter mentioned.—*Reg.* II. 1819, *Sect.* 5, *Cl.* 1.

Course of proceeding preparatory to an investigation regarding the liability of such lands to be assessed.

Whenever a Collector or other officer exercising the powers of Collector, shall visit or be about to visit any Mehal for the purpose of making a settlement in the manner prescribed in Regulation VII. 1822, it shall be competent to him by a Notification to be stuck up in some conspicuous place within such Mehal, and each village thereof, if consisting of several villages, to require all persons holding lands free of assessment, or at a fixed jumma within or adjoining to the village or villages in which the lands of such Mehal or any part thereof may be situate, to appear before him either in person or by Vakeel within a reasonable time, not being less than one month from the date of such Notification, at such place within the Mehal as he may select for holding his office, and to attend him from day to day while he may continue within the Mehal, with all Sunnuds or other writings in virtue of which they may possess the lands or under which the lands may have been or may be claimed to be held free of assessment or at a fixed jumma, together with any evidence they may desire to have taken in support of their claims.—*Reg.* IX. 1825, *Sect.* 5, *Cl.* 2.

Collectors, &c. employed in making a settlement of lands to issue a notification and to require the appearance before him of all persons holding lands free of assessment.

Who are to continue their attendance from day to day and to produce all sunnuds or other writings under which they claim to hold the lands rent free or at a fixed jumma.

It shall be competent to Collectors and other officers making settlements as aforesaid, either to complete the investigation of the claims of persons holding land free of Assessment, or at a fixed jumma, under the Rules of the fifteenth and following Sections of Regulation II. 1819, with the modifications hereinafter provided, during the progress of the Settlement; or to limit their proceedings to the ascertainment of

Collectors, &c. engaged in making settlements may either complete the investigations of claims under the rules in force or limit their proceedings to certain points.

the land actually held under such tenures, and the record of the title deeds produced by the parties; postponing the further investigation of the case to a future period. When any Collector or other officer may postpone the investigation of any case as aforesaid, he shall at the same time notify to the party the time and place at which the further investigation is to be held, or if circumstances prevent him from doing so, he shall before resuming the enquiry give the party one month's notice to attend: And on the failure of any party to attend when so warned, the Collector, or other officer aforesaid shall be competent to proceed to try the case exparte, and with the sanction of the Board, to resume and assess the lands.—*Reg.* IX. 1825, *Sect.* 5, *Cl.* 6.

When investigations are postponed Collectors to give the party due notice previous to resuming the enquiry.

And if the party should fail to attend, the case may be tried exparte, and the Collector may with the sanction of the Board of Revenue resume and assess the lands.

Power reserved to the Governor General in Council to vest any Collector, &c. deputed to hold a local enquiry within the limits of any Mehal with the same powers and authority in regard to lands held free of Assessment in all villages adjoining such Mehal.

It shall be competent to the Governor General in Council by an order in Council to vest any Collector or other officer who may be deputed to hold a local enquiry within the limits of any Mehal, with the same powers and authority in regard to all lands held free of assessment within or adjoining to the village or villages, in which the lands of such Mehal or any part thereof may be situated, and for the investigation of all claims touching such lands as by the foregoing provisions are vested in Collectors making settlements in the manner prescribed by Regulation VII. 1822: and also from time to time to depute Collectors or other officers aforesaid for the purpose of ascertaining, recording, or investigating the said claims in the manner above prescribed.—*Reg.* IX. 1825, *Sect.* 6.

All lands held free of Assessment within villages and Mehals of which the settlement may be made under Regulation VII. 1822, to be particularized and fully recorded on the procedings of the Collector, &c.

The particulars of all lands held free of Assessment within all villages and Mehals, of which the settlement may be made under the provisions of Regulation VII. 1822, shall be fully recorded in the proceedings of the Collector or other officer making the settlement.—*Reg.* IX. 1825, *Sect.* 7.

On the establishment of a Commissioner's jurisdiction in any particular district, the Collector or other local Officer may institute enquiries under Regulation II 1819, and Regulation IX. 1825, without

When the jurisdiction of a Commissioner shall have been established in any particular district, it shall be competent to the Collector or other local Revenue Officer of such district to institute the enquiries specified in Regulation II. 1819, and Regulation IX. 1825, in regard to any lands, which he may have reason to believe are held free of assessment, or at an inadequate jumma under an invalid tenure, or which being un-

occupied he may consider to be public property, without previously applying for the sanction of the Board of Revenue. In all other respects, however, he is to proceed to the investigation of the case in the manner provided for in Regulation II. 1819, and Regulation IX. 1825, accordingly as the one or other may apply to the case, and having closed his proceedings, he shall record in a Persian Roobukaree his judgement as to the liability of the lands to assessment or otherwise, in the manner directed in Section 20, of the first mentioned Regulation, and such decision shall have the force and effect of a decree, and a copy thereof on plain paper shall as soon as possible be delivered to the party concerned.—*Reg.* III. 1828, *Sect.* 4. *Cl.* 1.

previous sanctio of the Board.

In all other cases he is to proceed in the manner provided for in those Regulations.

And having closed his proceedings, he will record his judgment as to the liability of the lands to assessment or otherwise. Such decision to have the force and effect of a decree, and copy to be furnished to the party.

SECTION II.

Appointment of Special Deputy Collector to investigate Resumption Cases.

To the Commissioners of Revenue for the Divisions of Moorshedabad, Bauleah, Dacca, and Jessore.

1. The Sudder Board of Revenue having been apprised, by a communication from the Government Secretary, in the Revenue Department, under date the 13th instant, No. 1770, of the appointments of Mr. —— to be Special Deputy Collector in the districts of—— for the more prompt and efficient administration of the Resumption Laws, I am directed to transmit, for your guidance the following instructions and observations, in respect to the nature of the duties to be assigned to those gentlemen.

Increase of the number of Resumption officers, and consequent arrangements.

2. Mr. ———— and Mr. ———— have been appointed Deputy Collectors in the Districts before noted, for the exclusive purpose of relieving the respective Collectors from all the judicial duties connected with the resumption of lands held illegally free of assessment, or at a mocurruree jumma. In the performance of these duties, they will exercise their functions independently of the Collectors, whose authority over all inquiries, of the nature above stated, will cease upon Mr. ————'s arrival. They will, therefore, be requested to make immediate transfers of all suits, of whatever description,

now pending in their respective Districts, under the Resumption Laws; as well as of the registers of rent-free and mocurruree grants, and all other records which appertain to the Lakheraje Departments of the Collectors' offices.

3. It will be necessary to appoint distinct official establishments for the conduct of the duties confided to the Deputy Collectors, over which those officers will exercise the same controul as is at present vested in a Collector over his Native officers; and as, under the present arrangement, a considerable proportion of the whole business of the Collectors' offices will devolve on the Deputies, it will probably be practicable to supply some of the new Establishments, by merely transferring to the Deputy Collectors such part of the Collectors' Omlahs as have been exclusively occupied in the duties which have now been assigned to the former Officers. On this head it will be necessary, however, to communicate with the Collectors: at the same time, should any transfer of Native officers be found practicable, the Board are quite aware, with advertence to the important nature of the duties entrusted to the Deputy Collectors, that those officers should not be tied down to the nomination of the identical individuals, with whose services the Collectors will be enabled, in future, to dispense. The Deputy Collectors, in justice to the system which they have been appointed to administer, should be left unshackled in the nomination of whatever subordinates they may think best fitted for the situations for which they are respectively intended. In making these remarks, the Board do not, of course, wish to interfere with your own legitimate power of general supervision and controul, nor the exercise of your prescribed authority, in approving or rejecting the nomination of your subordinates.

4. As the Serishtadars of the Deputy Collectors will be persons from whom considerable quickness and habits of business will be required, and as they will, moreover, be in a more than usual degree liable to strong temptations to corruption, owing to the peculiar nature of the business in which they will be employed, the Board are fully prepared to recommend to Government that they should be renumerated by liberal salaries.

5. In accordance with the above observations, you are requested to prepare a statement of the establishments which,

after communication with the Collectors and Mr. ———, you propose shall be allowed, in future, for the Deputy Collectorates, with a view to its final submission to Government. In the mean while, as it is essential that Mr. ——— and Mr. ——— should be at once supplied with sufficient establishments to enable them, to enter immediately upon the active discharge of the duties entrusted to them; you are authorized to direct the employment of an establishment to the extent noted in the margin** for each of the gentlemen, as a temporary arrangement pending the receipt of the report which you are now called upon to submit.

6. In carrying these orders into effect, you are required to keep prominently in view the necessity of combining, with due economy, the complete efficiency of the establishments of the Special Deputy Collectors. Care should be taken on the one hand, that no expense, not absolutely necessary, be incurred; but, on the other, those officers should have such assistance as may enable them to make the most rapid progress, consistent with the careful performance of their important duties.

7. You will observe that Mr. ——— and Mr. ———'s* jurisdictions, in respect to the particular duties assigned to them extend over Districts,† as noted in the margin. In conduct-

		Rs.
**Sheristadar,		100
Peshcar,		50
4 Mohurrirs,	30	
"	20	
"	10	
"	10	
	70	70
Mohafez,		50
Nazir,		15
4 Chuprassies at 4 each,		16
Koranee moollah,		4
Gungajullee,		4
Paper and contingencies,		15
English writer,		50
		374

* *Moorshedabad.* Mr. Tayler and Mr. Plowden. *Jessore.* Mr. Plowden and Mr. Lowth. *Baulea.* Mr. Goad. *Dacca.* Mr. Carruthers and Mr. Bidwell.

† *Five Districts.* Burdwan, Bancoorah, Beerbhoom, Moorshedabad, and Hooghly. *Four Districts.* Nuddeah, 24-Pergunnahs, Jessore, Backergunge. *Three Districts.* Dinagepore, Rungpore, Rajshahye. *Three Districts.* Mymensing, Dacca, Sylhet.

ing their inquiries, the Board do not understand that it will be absolutely necessary for the Deputy Collectors to transfer their Cutcherries, in every instance, to the particular District in which the lands of any particular tenure under inquiry may be situated, any more than that they will be requested to establish themselves, ordinarily, at one particular District under their jurisdiction. On this head the Board refrain from laying down more specific instructions. The Deputy Collectors, having experience, will themselves be the most competent to decide as to the division of their time, between their different Districts, in the proportion best calculated to promote the end of their appointments; it will be sufficient to observe, generally, that they should, when not moving, hold their Cutcherries in the most centrical of the Districts allotted to them; that, in their movements, they should consult the convenience of the community, whose claims are to form the subject of their investigations, as far as is consistent with a due regard to the interests of the State; and that they should, especially, be careful, through the medium of extensively circulated notifications, to keep the public well and timely informed of their whereabouts.

8. Adverting to the lumping manner in which the Permanent Settlement of the greater majority of the districts of Bengal proper was formed, and the general want of ascertained and recorded land-marks, there is, necessarily, great difficulty in ascertaining the identity of particular lands, and consequently preventing the fraudulent amalgamation of tenures, held free of rent on invalid titles, with the permanently settled mehals to which they adjoin, whenever the interests of the parties in possession may dictate such a measure, for the purpose of defeating the just claims of Government to assess lands not on the Public Rent-roll, or legally exempt from taxation. On this account you are requested, especially, to place the Deputy Collectors on their guard against the frauds which will assuredly be attempted, and in many instances probably with success, if they do not ascertain the existence and extent of lands, claimed as rent-free, previously to investigating the validity of the tenure. At the earlier stages of proceeding the parties in possession will be generally ready to point out their lands, and a definition of boundaries; and, in cases where these are defective, actual measurement should be resorted to,

whenever such a measure can be adopted without infringement of any of the rights and privileges, conferred on the Zemindars or proprietors of permanently assessed estates by the Decennial Settlement, and not otherwise.

9. It occurs to the Board that, for the purpose of conducting preliminary inquiries of the above nature, one or more Native Deputy Collectors, with a suitable Measuring Establishment, might advantageously be employed under the Special Deputy Collectors; but on this head, as well as on many others, the Board are unable, in the absence of local information, to issue any detailed instructions. You are, therefore, requested to desire Mr. ——— and Mr. ———, as soon as they shall have made themselves acquainted with the nature and extent of the business entrusted to them, to submit a report of the same, together with their own sentiments as to the best means of rendering their services more efficient.

10. For this purpose, as well as to assume charge of the Lakheraje records, and to put in progress inquiries calculated to ripen cases for decision, at a future periodical visit, it appears desirable that the Deputy Collectors should be required, in the first instance, to visit the Districts of their jurisdictions with the least practicable delay.—*Cir. Ord. S. B. R. No.* 1, *Jan.* 2, 1837.

It having been brought to the notice of the Sudder Board of Revenue, that Special Deputy Collectors whose jurisdictions extended over more than one district, have not in all cases conformed to the instructions contained in the 7th Paragraph of the Circular Orders of the 2nd January 1837, by which they were directed to consult the convenience of the public by fixing their Cutcherries at centrical stations, and moving from place to place as the state of their business might require. I am desired by the Board to request that you will enjoin upon the Special Deputy Collectors in your Division a strict observance of this principle, requiring them, as a general rule to dispose of the cases of each District in succession and invariably to hold their Cutcherries within the limits of the Zillahs the cases appertaining to which they may be at the time adjudicating, unless in any instance the parties concerned may expressly desire that the proceedings may be held elsewhere.—*Cir. Ord. S. B. R. No.* 75, *Nov.* 20, 1838.

Explanatory of Para. 8, C. O. No. CCCXLII. regarding measurements in resumption cases.

I am directed by the Sudder Board of Revenue to communicate the following explanation, which is considered necessary in regard to the clauses underlined, of the passage quoted in the margin* from their Circular instructions of the 2nd January last, No. 1, Paragraph 8.

2. The concluding clause was introduced into those Circular instructions, without due advertence to the connection in which it stands to the measurement of *lands claimed as rent-free.*

3. The measurement, whether of lands claimed to be held free of assessment, or of the Estates upon which they abut, when necessary to the just determination of the Lakheraje claim, is not intended to be prohibited: such a proceeding, in order to assert the rights of the State to lands claimed to be held free of assessment, is not at variance with any of the rights or privileges conferred on the Zemindar by the perpetual settlement; nor can it be seriously objectionable to any proprietor of honest intentions. The disinclination of any Zemindar, whose object is to screen the fraudulent conduct of a neighbour or his own, is not worthy of consideration.

4. It is the duty, and should be the purpose, of those parties to whom a fixed tenure is guaranteed by the Permanent Settlement, to further every endeavour to assert the just claims of the Government, from which they derive their possession and their security; and to bring under contribution to the service of the state, those lands which have hitherto obtained an unauthorized exemption, under illegal or invalid titles. Nor should they less readily give their aid, and submit, as the state requires it, to a temporary inconvenience, as the consequence of a measurement may be the permanent recognition of duly registered and valid titles, which circumstances may, for a time, lead the officers of Government entrusted with the powers of resumption, to question.

* On this account you are requested, especially to place the Deputy Collectors on their guard against the frauds which will assuredly be attempted, and in many instances probably with success if they do not ascertain the existence and extent of *lands claimed as rent-free* previously to investigating the validity of the tenure. At the earlier stages of proceeding the parties in possession will be generally ready to point out their lands and a definition of boundaries; and in cases where these are defective, actual measurement should be resorted to *whenever such a measure can be adopted without infringement of any of the rights and privileges conferred on the Zemindars or proprietors of permanently assessed Estates by the decennial settlement, and not otherwise.*

5. The above remarks refer entirely to the course of proceeding to be adopted in regard to lands claimed to be held free of assessment. Under the Order of Government, dated the 2nd May last, No. 586, circulated by the Board on the 16th of May, the Special Deputy Collectors were directed to defer investigations regarding alleged Towfeer lands until they shall have disposed of all the Lakheraje cases on their respective files, except in special cases to be previously reported for the sanction of the Board.—*Letter to the Commissioners of Revenue. Cir. Ord. S. B. R. No.* 71, *August* 22, 1837.

All business and papers connected with Resumption cases and pending appeals to Special Commissioners to be transferred by Collectors to the Special Deputies.

I am directed to transmit, for your information, copy of a letter from the Special Commissioner for the Moorshedabad Division, and of my reply of this date, from which you will perceive it to be intended, that every description of business, connected with resumption cases, is to be performed by the Special Deputy Collectors within their respective jurisdictions.

2. You will be pleased to instruct your subordinate officers accordingly; and also to direct, that all papers in the Collectors' offices, connected with cases pending before the Special Commissioners, be made over to the Special Deputy Collectors to whose jurisdictions they belong.—*Cir. Ord. S. B. R. No.* 40, *May* 30, 1837.

Special Commissioner, Moorshedabad Division, to Sudder Board, 25th April, 1837.

I have the honor to request that you will communicate to me the nature of the Orders which have been issued to Special Deputy Collectors, with regard to Resumption cases decided before their appointments to their present offices, in order that I may be able to determine when the orders of this Commission, in cases in appeal before it, ought to be addressed to Collectors, and when to the Special Deputy Collectors.

2. The Special Deputy Collector of Burdwan, &c. appears to consider that he has no concern with the proceedings, in appeal, in cases decided by the Collectors or Deputy Collectors before his appointment; and I should imagine that, in general, it would be inconvenient that such cases should be removed from the Collector's offices: but when further investigation is considered necessary, which often involves as much labour as the original proceedings, it will probably be the intention of your Board that the cases shall pass through the office of the Special Deputy Collectors.—*Letter from the Special*

Commissioner of Moorshedabad Division, to the Sudder Board, No. 61, 25th April, 1837.

Additional Secretary Sudder Board, to Special Commissioner Moorshedabad Division, 30th May, 1837.

In reply to your letter, dated the 25th ultimo, I am directed to state, that, in the opinion of the Board, all references on the subject of resumption cases ought to be made to the Special Deputy Collector to whose jurisdiction the cases belong, whether they were made over to the Special Commissioner, before or after the Special Deputy Collector's appointment.

2. A copy of a Circular Order which has been issued by the Board on this subject, is annexed for your information.—*Reply of the Additional Secretary, Sudder Board, to the Special Commissioner, Moorshedabad Division, No. 27, 30th May,* 1837.

Special Deputy Collectors allowed Cutcherry rent at 50 Rupees per mensem.

I am directed by the Sudder Board of Revenue to transmit, for your information, and for communication to the officers concerned, the accompanying copy of a letter from Government, No. 448, dated 11th instant, sanctioning an allowance of 50 Rs. per mensem to all Special Deputy Collectors on account of Cutcherry rent.—*Cir. Ord. S. B. R. No. 22, April* 18, 1837.

Secretary Govt. of Bengal, to Secretary Sudder Board, 11th April, 1837.

With reference to your letter, No. 129, of the 28th ultimo, I am directed to request that you will inform the Board, that, at their recommendation, the Right Honourable the Governor of Bengal has been pleased to sanction the grant of an allowance of Rs. 50 each per mensem, to all Special Deputy Collectors on account of Cutcherry rent, in Districts where no public accommodation exists.

2. A copy of the communication this day addressed to the Commissioner of Jessore is transmitted for the Board's information.—*Letter from the Secretary to the Government of Bengal, to the Secretary Sudder Board, No.* 448, *11th April,* 1837.

SECTION III.

Preliminary Proceedings.

Notice to be served on the party;

The Collector, on receiving the authority of the Board of Revenue, shall call the party before him by a notice, stating the demand of Government on the lands, and requiring him to attend either in person, or by vakeel, within the period of one month, and to produce all Sunnuds, or other writings in virtue of which he may possess the lands, or under which they

may have been, or may be claimed to be held free of assessment, or at a fixed jumma.—*Reg.* II. 1819, *Sect.* 5, *Cl.* 2.

Or to his agent, if any accredited agent reside at the Sudder station.*

If the persons whose lands it is proposed to assess, have an accredited agent at the Sudder station with general powers to act for his principal, the notice to be issued under the preceding Clause, shall be tendered to such agent, to be communicated by him to his principal, and the agent's acknowledgement to be endorsed upon it shall be accepted as a sufficient service of it,—if he be desirous of giving such acknowledgement in preference to the notice being served on the person of his principal by a chupprassy, or peon of the Collector.—*Reg.* II. 1819, *Sect.* 5, *Cl.* 3.

Notice on the principal to be served through the Nazir by a single peon.

If the person, the revenue of whose lands it is proposed to resume, shall not have an accredited agent at the Sudder station of the description above mentioned—or if such agent shall decline receiving the notice for communication to his constituent, and the defendant be resident within the Collectorship; it shall be served on him through the Nazir of the Collector by a single chupprassy, or peon; who shall require the acknowledgement of the party to be endorsed upon it, or, if he be absent from his usual place of residence, the acknowledgement of his principal agent, or of any person acting for him during his absence. If the party be resident within the jurisdiction of any other Collectorship than that in which the lands proposed to be assessed are situated, the notice shall be transmitted to the Collector of the district in which the party may reside, to be served in the manner above directed.—If the party be neither resident within the Collectorship in which the lands in question may be situated, nor in any other Collectorship; the notice shall be served upon his agent or representative in charge of the lands.—*Reg.* II. 1819, *Sect.* 5, *Cl.* 4.

Notice how to be served if the party reside in another jurisdiction.

If an acknowledgement be refused, the tender to be considered as sufficient notice.

Provided always that if any party or his agent in charge of his land, on whom a notice may be served in the manner above prescribed, shall refuse to acknowledge the receipt of it when required by the person serving it, the tender of the notice to such party or his agent shall be taken for a sufficient service; such tender to be proved by the evidence of two persons residing on the lands, or in the nearest village.—*Reg.* II. 1819, *Sect.* 5, *Cl.* 5.

Prohibiting the demand of Tulubana, or service of

It having been brought to the Board's knowledge that a practice has prevailed in some Districts, of demanding Tulabana

process under Sect. 5, Reg. II. 1819.

from the defendants, for peons employed in serving processes under Section 5, Regulation II. 1819, which is illegal, I am directed to request that you will notify to the Collectors in your Division, that such practice, wherever it may exist, must be discontinued, and that the notices in question should be served, in future, at the expense of Government.—*Cir. Ord. S. B. R. No.* 68, *Oct.* 15, 1830.

What to be contained in the notice.

The Collector shall, in the notice summoning the party, warn him, that if he withhold any writings of the nature specified in the second Clause of this Section, within the period prescribed, they will not afterwards be received, unless he shall shew good and sufficient cause for not producing them, and shall assign such cause on his appearing before him.—*Reg.* II. 1819, *Sect.* 5, *Cl.* 6.

Collectors, &c. employed in making a settlement of lands to issue a notification and to require the appearance before him of all persons holding lands free of assessment.

Whenever a Collector or other officer exercising the powers of Collector, shall visit or be about to visit any Muhal for the purpose of making a settlement in the manner prescribed in Regulation VII. 1822, it shall be competent to him by a Notification to be stuck up in some conspicuous place within such Muhal, and each village thereof, if consisting of several villages, to require all persons holding lands free of assessment, or at a fixed jumma within or adjoining to the village or villages in which the lands of such Muhal or any part thereof may be situate, to appear before him either in person or by Vakeel within a reasonable time, not being less than one month from the date of such Notification, at such place within the Muhal as he may select for holding his office, and to attend him from day to day while he may continue within the Muhal, with all Sunnuds or other writings in virtue of which they may possess the lands or under which the lands may have been or may be claimed to be held free of assessment or at a fixed jumma, together with any evidence they may desire to have taken in support of their claims.—*Reg.* IX. 1825, *Sect.* 5, *Cl.* 2.

Who are to continue their attendance from day to day and to produce all Sunnuds or other writings under which they claim to hold the lands rent free or at a fixed jumma.

Collectors upon commencing the settlement of Mehals to give public notice by an Ishtahar one day previous to that on which it is intended to hold proceedings in any of the

When the Collector or other officer aforesaid shall have commenced the settlement of any Muhal in regard to which he may have issued a notification as aforesaid, and shall propose to hear the claims of persons holding lands free of assessment or at a fixed jumma and to receive their Sunnuds and other writings as aforesaid or any of them, the period fixed in the

notification for the attendance of such parties being arrived, he shall on the day preceding that on which he may intend to hold proceedings in the said cases or any of them, notify such intention by an Istahar stuck up in his office and in some place, open to the public, within the Muhal.—*Reg.* IX. 1825, *Sect.* 5, *Cl.* 4.

cases proposed to be investigated.

It having been brought to the notice of the Sudder Board of Revenue that the Special Deputy Collectors have in some instances omitted to record any order for issuing the notice to the holder of a rent-free tenure prescribed by Clause 2, Section 5, Regulation II. of 1819, they direct me to request you will call the attention of the Resumption officers within your jurisdiction to this particular, and enjoin them to put invariably upon record the grounds on which the notice in question is issued. As it is most desirable that every rent-free tenure, which has not already been judicially decided upon should be brought under investigation and definitively disposed of, one way or the other, it may seem that this preliminary Roobakaree is little more than a form, but still it is a formality that will complete the record and render the whole proceedings consistent and uniform, and its observance therefore should not be dispensed with.—Of course it is not imperative on the Resuming officer to assign in this Roobakaree any special ground for presuming the rent-free tenure to be invalid; it will be sufficient for him to state generally that having reason to believe, either from reference to the registers in his office, or from any other source of information, that certain lands are held rent-free, an enquiry into the validity of the tenure is considered necessary, and he therefore directs the usual notice to be issued and served in the prescribed manner on the holder of the tenure requiring him to produce his title deeds, &c.—*Cir. Ord. S. B. R. No.* 71, *Oct.* 23, 1838.

If notice cannot be served, a proclamation to be issued.

If the holder of such lands to whom a notice may have been issued as directed in the preceding Section, shall abscond, or is not after diligent search to be found, or shall shut himself up in any house or building, or retire to any place, so that the notice cannot be served upon him, the Collector or other officer exercising the power of Collector, on receiving the Nazir's return to this effect, shall issue a proclamation, to be affixed in some conspicuous part of his cutchery. The proclamation shall be written in the Persian and Bengal lan-

guages, in the provinces of Bengal, and Orissa, (including Cuttack); in the Persian language and character and in the Hindoostanee language and Nagree character in Behar, Benares, and in the ceded and conquered Provinces, and it shall contain a copy of the former notice, and a further notification to the party, that if he shall not appear on a day to be fixed (which shall not be less than fifteen days from the time that the proclamation may be fixed up,) the Collector will proceed without further notice, to hold the enquiry exparte. The Collector or other officer exercising the power of Collector, shall likewise order a copy of the proclamation and notice to be fixed up, with all practicable dispatch, on the outer door of the house, in which the holder of the lands may have usually dwelt, or in some conspicuous place in the chief village within, or in the neighbourhood of the lands proposed to be assessed.—*Reg.* II. 1819, *Sect.* 6, *Cl.* 1.

What is to be contained in the proclamation.

Copy of the proclamation where to be fixed up.

The Nazir shall return the order with an endorsement, stating at what times and places the proclamation may have been fixed up. The return of the Nazir shall be filed with the Collector's proceedings in the case. If the party shall not appear at the time limited in the proclamation, or if a party who may have been served with a notice shall not appear within the time therein limited, or if having appeared, he shall refuse to give answer, the Collector shall proceed to investigate and decide upon the case in the same manner, as if the party had appeared, answered, and entered into proof.—*Reg.* II. 1819, *Sect.* 6, *Cl.* 2.

Nazir's return how to be made.

If the party shall not appear or shall refuse to answer, the case to be investigated.

If any person holding land free of assessment or at a fixed jumma as aforesaid shall fail to attend either in person or by Vakeel after notice being given in the manner above prescribed, the Collector shall be competent to proceed exparte to investigate the title of such party to hold the land in his possession free of assessment; and with the sanction of the Board of Revenue to resume the said lands if they appear to be held on an invalid title. Nor shall any person, defaulting as above, or neglecting to appear and give answer when required to do so in the manner prescribed in Regulation II. 1819, be entitled to stay the resumption and assessment of his lands, under the rule contained in the 22d Section of that Regulation. Provided further that the rule contained in Clause 2, Section 13, Regulation II. 1819, shall be and be held applicable to

Collectors empowered to proceed exparte in investigations should persons fail to attend after due notice given them.

And with the sanction of the Board of Revenue to resume such lands if they appear to be held on an invalid title.

Defaulters neglecting to appear or to furnish the information required from them not entitled to stay the resumption and assessment of their lands.

such persons, as well as to persons who may appear when summoned under the provisions of that Regulation or in the manner hereinbefore provided.—*Reg.* IX. 1825, *Sect.* 5, *Cl.* 5.

Proviso.

Collectors, &c. engaged in making settlements may either complete the investigations of claims under the rules in force or limit their proceedings to certain points.

It shall be competent to Collectors and other officers making settlements as aforesaid, either to complete the investigation of the claims of persons holding land free of Assessment, or at a fixed jumma, under the Rules of the fifteenth and following Sections of Regulation II. 1819, with the modifications hereinafter provided, during the progress of the Settlement; or to limit their proceedings to the ascertainment of the land actually held under such tenures, and the record of the title deeds produced by the parties; postponing the further investigation of the case to a future period. When any Collector or other officer may postpone the investigation of any case as aforesaid, he shall at the same time notify to the party the time and place at which the further investigation is to be held; or if circumstances prevent him from doing so, he shall before resuming the enquiry give the party one month's notice to attend: And on the failure of any party to attend when so warned, the Collector, or other officer aforesaid shall be competent to proceed to try the case exparte, and with the sanction of the Board, to resume and assess the lands.—*Reg.* IX. 1825, *Sect.* 5, *Cl.* 6.

When investigations are postponed Collectors to give the party due notice previous to resuming the enquiry.

And if the party should fail to attend, the case may be tried exparte, and the Collector may with the sanction of the Board of Revenue resume and assess the lands.

What enquiry to be made.

In cases of land supposed to be liable to assessment under the provisions of Section 3 of this Regulation, the Collector or other officer exercising the powers of Collector, shall institute a full and particular enquiry into the circumstances and condition of the land in question at the period of the decennial settlement; and in cases of alluvion land, into the period of its formation.—*Reg.* II. 1819, *Sect.* 7.

Collector with the sanction of the Board may cause a survey or measurement to be made.

When an enquiry in regard to land of the nature of that described in the foregoing Section shall have been authorized, it shall be competent to the Collector, with the sanction of the Board of Revenue, or other authority exercising the powers of that Board, previously obtained, to cause a survey or measurement to be made of all such lands, and of the estate to which such lands may be alleged to belong.—*Reg.* II. 1819, *Sect.* 8.

Collector may summon putwarries and require

It shall likewise be competent to the Collector, in all cases of enquiry held under the provisions of this Regulation, to

accounts and examine on oath;

summon the putwarry, gomashtah, or other person by whom the accounts relating to the lands proposed to be assessed, or to the estate to which the lands may be alleged to belong, are kept, and to require him to produce all accounts relating to such lands or estate, and to examine him on oath to the truth of such accounts, and on any other matter relating to such accounts, or regarding such lands or estate, in the manner specified in Section 22, Regulation XII. of 1817.—*Reg.* II. 1819, *Sect.* 9.

Collector empowered to summon a putwarry when necessary.

Collectors of land revenue are hereby empowered to summon the putwarry of any village or villages within their respective districts, whenever there may be occasion for his attendance, on any matter connected with the duties of his office, and to require him to produce all accounts relating to the lands, produce, rents, collections and charges of the village or villages, the accounts of which may be kept by him; and to examine him on oath, to the truth of such accounts, and on any other matters relating to such accounts, or regarding the lands, produce, rents, collections and charges of the village or villages to which the said putwarry may belong.—When a collector shall require the attendance of a putwarry, for the purpose above stated, he is to serve such putwarry with a written notice under his official seal and signature, stating the purpose for which his attendance is required, and the papers (if any) which he is to bring with him.—*Reg.* XII. 1817, *Sect.* 22.

And to examine him on oath to the truth of his accounts.

Form of the notice to be issued on such occasions.

And may require the attendance of the person claiming the land, with his accounts.

It shall be further competent to the Collector in such cases, with the sanction of the Board of Revenue, or other authority exercising the powers of that Board, to require the person claiming to be proprietor or farmer of the lands proposed to be assessed, or of the estates to which they are alleged to belong, to attend either in person or by representative, and to produce all the accounts relating to such lands or estate, within a resonable period, not being less than one week.—*Reg.* II. 1819, *Sect.* 10.

Notice to be served on such person.

Whenever the Collector or person exercising the powers of Collector, shall require the attendance of any proprietor or farmer, or of any putwarry or gomashtah or other officer, for the purpose stated in the above Section, he is to serve such proprietor or other person as aforesaid, with a written notice under his official seal and signature, stating the purpose for which his attendance is required, the papers (if any) which he is to

bring with him, and the period within which he is to attend.—*Reg.* II. 1819, *Sect.* 11, *Cl.* 1.

Such notice to be served in conformity with Section III. Regulation XIV. 1793.

Provided further that the rules contained in Section 3, Regulation XIV. 1793, regarding the mode of serving process for the recovery of arrears of revenue, shall be held applicable to processes issued by a Collector or other officer exercising the powers of a Collector, under the provisions contained in Sections 9 and 10 of this Regulation; excepting always so much of the said rules, as prescribes, that the peon serving the summons, shall be paid by the party in whose name it is issued.—*Reg.* II. 1819, *Sect.* 11, *Cl.* 2.

Exception.

Payment of arrears of revenue to be demanded in writing.

By whom the writing is to be attested; what it is to contain;

and by whom and how served upon the defaulter.

When a Collector shall have occasion to require payment of an arrear of revenue, from any Zemindar, independent talookdar, or other actual proprietor of land, or any farmer of land, he is to demand the discharge of it by a writing under his official seal, and attested by his signature, and that of his dewan, specifying the amount of the arrear, and the date on which it became due, and requiring it to be paid at the treasury of the collectorship, within a certain number of days after the day on which the writing may be served, in the manner herein specified. In fixing the day for the payment of the arrear, the collector is to advert to the distance of his place of residence from the estate or farm of the defaulter, and allow a reasonable time for him to convey the money to the public treasury. The Collector is to deliver the writing to a single peon, with directions to proceed either to the principal cutcherry of the defaulter, in the estate or farm on account of which the arrear may be due, or to the usual place of abode of the defaulter, if it be within the limits of his Zillah, according as he may deem advisable. The defaulter, or his head officer in attendance in such cutcherry, is to grant, and the peon is to take, a receipt for the writing, specifying the date on which he may present it. The defaulter, or his officer abovementioned, is to pay to the peon two annas per day for his subsistence, (excepting in districts where custom has fixed the subsistence money of peons at a lower rate, in which case such lower rate, and no more, shall be exacted,) for the time allowed for delivering the writing, and returning to the Collector. The name of the peon who may be deputed, the amount of his subsistence money, and the number of days for which he is to receive it, are to be endorsed on the writing. If the peon deputed to serve the demand for the arrears, shall not meet with, or be able to gain admittance to, the defaulter, or his head officer, by the evening of the day following the day on which he may arrive at his usual place of abode, or at his cutcherry above specified, or, if the defaulter, or his head officer, shall refuse or omit to give the receipt above required to

the peon, immediately upon his presenting the writing, he is on the same evening to fix up the writing on the outer door or gate of such place or cutcherry, and return to the Collector, to whom he is to report the date on which he may have fixed it up. Written demands for arrears so presented to a defaulter, or his head officer, or fixed up at his usual place of abode, or his cutcherry before mentioned, shall be considered to have been duly served upon him.—*Reg.* XIV. 1793, *Sect.* 3.

Penalties on putwarries neglecting to produce accounts, or falsifying them, or giving false evidence regarding them.

If any putwarry, gomashtah, or other person by whom the accounts of lands are kept, and who may be summoned by a Collector or Commissioner, under the provisions contained in Sections 9 and 11 of this Regulation, shall neglect or omit to produce his original accounts on the requisition of the Collector or Commissioner, or to give his evidence regarding them, or shall intentionally and deliberately give a false deposition on oath before the Collector or Commissioner, when summoned and examined as aforesaid, or shall alter, fabricate, falsify or mutilate the accounts relating to such lands, or to the estate to which such lands are stated to belong, shall be and be held liable to the pains and penalties specified in Sections 23, 26, and 27, of Regulation XII. 1817, according as the provisions of one or other of those Sections may be applicable to the offence committed by him.—*Reg.* II. 1819, *Sect.* 12.

Powers vested in the Collector to compel the putwarries to produce their accounts.

Process to be observed on such occasions.

If any putwarry shall neglect or omit to produce his original accounts on the requisition of a Collector, or to give his evidence respecting them, the Collector is hereby authorized and empowered to cause the said putwarry to be apprehended, and to order him to be confined in the dewanny jail of the district until he produce his accounts, or shew sufficient cause for not producing them. In such cases the putwarry shall be sent by the Collector with a Roobukaree to the Judge of the City or Zillah, stating the purport of the order passed against him, and the Judge shall, on those grounds, commit the putwarry to jail, and detain him until he produce the accounts, or until the Collector applies for his release.—*Reg.* XII. 1817, *Sect.* 23.

Putwarries giving deliberately a false deposition on oath declared guilty of perjury, and on conviction before a Court of Circuit liable to the prescribed punishment.

Any putwarry giving intentionally and deliberately a false deposition on oath, when examined before a Collector, or the officer of a Collector duly empowered to take his examination relative to the lands, produce, collections and charges of the village or villages to which he belongs, shall be held and considered guilty of perjury, and shall be liable on conviction before a Court of Circuit, to the penalties

which are or may be prescribed for that offence in the Regulations; and any person causing or procuring a putwarry to commit the offence of perjury as above described, is hereby declared guilty of subornation of perjury, and punishable under the provisions of the Regulations.—*Reg.* XII. 1817, *Sect.* 26.

And persons causing or procuring a putwarry to commit perjury, declared punishable as suborners of perjury.

In like manner, any putwarry who shall alter, fabricate, falsily or mutilate the accounts of the village to which he belongs, or shall furnish to the Canoongoe or Collector false, fabricated or mutilated copies of those accounts, shall be held and considered guilty of forgery, and shall be liable on conviction before a Court of Circuit to the penalties which are or may be prescribed for that offence in the Regulations; and any person who shall cause or procure any such forgery, shall be liable to the same penalties, as those convicted of having actually committed the offence.—*Reg.* XII. 1817, *Sect.* 27.

Putwarries falsifying or mutilating the village accounts, liable to the prescribed punishment of forgery.

If the holder of any lands, in regard to which the Collector shall have been authorized by the Board of Revenue, or other authority exercising the powers of that Board, to institute the enquiry described by Section 7, of this Regulation, shall refuse or neglect to furnish the accounts relating to such lands, within the period specified in the Collector's requisition, the Board of Revenue, or other authority exercising the powers of that Board, shall be competent to direct the lands to be immediately attached, and the rents collected on account of Government, in the same manner as if the lands were the property of Government. In such cases, however, it shall still be the duty of the Collector to make a full enquiry into the title of the holder of the lands, and to transmit his proceedings to the Board who will decide whether the lands shall be deemed permanently liable to assessment.—*Reg.* II. 1819, *Sect.* 13, *Cl.* 1.

Lands may be attached, if the holders of them neglect to furnish accounts.

In such cases a full enquiry to be made by the Collector into the title of the holder.

Provided also, that if any proprietor or farmer shall omit, or refuse to attend, or to cause his officer or agent to attend when duly summoned by the Collector or Commissioner by the time prescribed in the notice issued by the Collector or Commissioner, or shall omit or refuse to furnish the accounts or documents required, and to shew sufficient cause for such omission; the Board of Revenue or other authority exercising the powers of that Board, are authorized and empowered to impose upon him such daily fine, to be payable daily, until he complies with the Collector's requisition, as they may think adequate to his situation and circumstances in life, re-

In what cases fines may be imposed for non attendance of a proprietor or his agent, or for omission to furnish accounts.

porting however the amount for the information of the Governor General in Council. The fine when confirmed by Government, is to be levied by the same process as is prescribed for the recovery of arrears of Revenue.—*Reg.* II. 1819, *Sect.* 13, *Cl.* 3.

His Lordship has given that attention to your letter above cited, which is justly due to the ability with which the opinions of the Board have been stated; but the purport of Section 13, Regulation II. of 1819, still appears to him to be so plainly indicated in my letter of the 30th of August last, that he is unable to yield his assent to the arguments urged by them in contravention of that opinion. The Board will observe that the majority of the Sudder Court concur in the view taken by the Governor to this extent that "if the attached lands be finally adjudged liable to assessment, Government are entitled to the mesne profits during attachment:" but they hold on the other hand that if the lands be declared exempt from public assessment, the proprietors have a just claim against Government for the mesne profits, which accrued whilst the lands were under the charge of the revenue authorities.

His Lordship is willing that this construction should regulate the practice in all future cases. The Board will not fail to impress upon all subordinate officers the necessity for great care, regularity, and tenderness of proceeding, in order that wilful contumacy may alone be subjected to so heavy a penalty as the law in question imposes.—*Letter from the Sec. to the Govt. of Bengal, to the Secretary, Sudder Board of Revenue, No.* 460, *April* 11, 1837. *Cir. Ord. S. B. R. No.* 48, *June* 6, 1837.

Accounts not furnished to the Revenue authorities shall not afterwards be received in evidence in courts of justice in suits instituted to contest the decision of those authorities.

Provided further that, if the holder of any lands assessed under the rules of this Regulation, shall institute a suit in Court to contest the decision of the revenue authorities, and shall produce any accounts or documents beside such as he may have delivered to the Collector, the accounts or documents so produced shall not be received by the Court in evidence, nor shall they have any weight in the decision, any more than if they had never existed,—unless he shall show good cause, to the satisfaction of the Court, for not having produced the said accounts, or documents, and shall prove that he assigned such cause in answer to the Collector's requisition, or shew good cause for not having done so.—*Reg.* II. 1819, *Sect.* 13, *Cl.* 2.

Exception.

If any zemindar or other person shall resist or cause to be resisted, the attachment or measurement of lands, which the Board of Revenue or other authority exercising the powers of that Board, shall have authorized the Collector or Commissioner to attach or measure, under the provisions of this Regulation, or shall resist or cause to be resisted any process duly issued by the Collector or Commissioner, to compel a patwarry, gomashtah or other officer to produce his accounts, and to give his evidence respecting them under the provisions contained in Section 9, of this Regulation; it shall be competent to the Board of Revenue or other authority exercising the powers of that Board, on being satisfied that he is guilty of the charge, to adjudge the zemindar or other person so offending, to pay such fine to Government as may appear to it proper, upon a consideration of his situation and circumstances in life, and of the offence which he may have committed, and to levy the fine in the mode prescribed for the recovery of arrears of revenue; provided, however, that if the fine shall exceed five hundred Rupees, the Board shall submit a report of the case to the Governor General in Council, and shall not proceed to levy the fine, until they shall receive authority from Government for that purpose.—*Reg.* II. 1819, *Sect.* 14.

Penalties for resistance of process issued under this Regulation.

No lands shall be resumed by a Collector, even though the parties may confess that they are liable to assessment, without the sanction of the Board of Revenue, save and except as hereinafter provided: but on such confession duly attested, which will of course supersede the necessity of any further inquiry, it shall be competent to the Board forthwith to direct the lands to be assessed, unless the same be held by village or zemindaree servants in lieu of wages, which shall not be resumed without the sanction of Government. Provided also that in all cases wherein it may appear to the Board that the resumption of lands held free of assessment would occasion serious distress to the holders, it shall be their duty to submit a report of the circumstances to the Governor General in Council. —*Reg.* IX. 1825, *Sect.* 5, *Cl.* 8.

Collectors, &c. prohibited from resuming lands even though the parties acknowledge such lands to be liable to Assessment, without the sanction of the Board of Revenue.

The Board in such cases to direct the assessment of the lands unless they are held by servants in lieu of wages which are not resumable without the sanction of Government.

It shall not be necessary to use Stampt paper, for the proceedings held, or exhibits filed before the Revenue authorities in cases originating with a Collector, or other Officer of Government claiming to assess land held free of assessment. But the said authorities are authorized in the said cases, as in all

Stampt Paper for proceedings in cases originating with a Collector declared to be unnecessary.

Witnesses to be awarded all reasonable charges which as well as costs are to be levied by the process in force for the recovery of arrears of revenue.

other cases wherein they may exercise judicial powers under the provisions of the existing Regulations, to award to witnesses their reasonable charges and to levy the same, as well as all costs adjudged by them, by the process in force for the recovery of arrears of the Government Revenue.—*Reg.* IX. 1825, *Sect.* 5, *Cl.* 10.

SECTION IV.

Examination of the Validity of Documents.

[HOOKAMEE GRANTS.]

Grants forged or altered in any respect, or antedated, declared void.

If it shall appear to any Court of Judicature during the course of a trial, that a grant for land to be held exempt from the payment of revenue, dated prior to the 1st December 1790, has been forged, or that the name of the original grantee has been erased, and any other name substituted, or that any name not in the original grant has been inserted, or that the denomination of the tenure in the original grant has been erased or altered, or that the date of the grant has been changed, or that the grant has been antedated, the grant shall be adjudged null and void as far as regards the exemption of the land from the payment of revenue, and the land shall be subjected to the payment of revenue accordingly.—*Reg.* XIX. 1793, *Sect.* 17.

Persons concerned in the fraud, liable to a criminal prosecution.

Any person by whom any of the frauds specified in the preceding section may appear to have been committed, or who may have been concerned therein, shall, provided the Court is of opinion that there are sufficient grounds for a criminal prosecution, be committed or held to bail (according to the circumstances of the case) to take his trial before the Court of Circuit.—*Reg.* XIX. 1793, *Sect.* 18.

[BADSHAHEE GRANTS.]

Grants forged or altered in any respect, or antedated, declared void.

If it shall appear to any Court of Judicature during the course of a trial, that a grant has been forged, or that the name of the original Grantee has been erased, and any other name substituted, or that any name not in the original Grant has been inserted, or that the denomination, or the terms of the tenure in the original Grant, have been erased or altered, or that the date of the Grant has been changed, or that the grant has been antedated, the Grant shall be adjudged null and void.—*Reg.* XXXVII. 1793, *Sect.* 12.

Persons con-

Any person by whom any of the frauds specified in the pre-

ceding Section may appear to have been committed, or who may have been concerned therein, shall, provided the Court is of opinion that there are sufficient grounds for a criminal prosecution, be committed or held to bail (according to the circumstances of the case) to take his trial before the Court of circuit.—*Reg.* XXXVII. 1793, *Sect.* 13.

cerned in the frauds liable to a criminal prosecution.

[These enactments were extended to Benares, by Reg. XLI. 1795, Sects. 17, 18; Reg. XLII. 1795, Sects. 12, 13.]

Validity of firmauns, sunnuds or grants to be crefully ascertained.

On the production of any written document purporting to be a firmaun of any king of Delhi, or to be a sunnud, purwanna, or other grant, of any vizier, or of any nawaub, raja, or other potentate or person formerly exercising authority in any part of the provinces, and territories now subject to the British Government, it shall be the duty of the revenue and judicial authorities before whom such document may be produced, to ascertain the validity and authenticity of it, by reference to such offices and records, and by the examination of such living witnesses as may be likely to lead to the due appreciation thereof—And the said authorities shall not receive such document in evidence merely on the credit of the seal, or other attestations impressed upon it, without some external evidence in corroboration of its authenticity.—*Reg.* II. 1819, *Sect.* 28, *Cl.* 1.

Such deeds not to be received unless duly registered.

Provided also that no document of the above description, which may be produced to any Court or Adawlut, shall be received, nor any proceedings held thereon, nor any faith given thereto, unless it shall be proved that the said document has been duly registered under the rules and requisitions of Regulations XIX. and XXXVII. 1793, XLI. and XLII. 1795, VIII. 1800, XXXI. and XXXVI. 1803, and VII. 1808, or unless due cause be shewn for the non-registry.—*Reg.* II. 1819, *Sect.* 28, *Cl.* 2.

SECTION V.

Investigation.

Duty of Collector when parties attend and produce their title deeds.

When the party, whose lands it may be proposed to assess, shall appear in conformity with the notice or summons, and shall deliver up his title deeds, the Collector shall give a re-

ceipt for them, and after duly examining them, shall deliver to the party a statement of the grounds on which his land may appear liable to assessment, with copies, on plain paper, of all documents on which his opinion may be founded. The Collector shall then desire the party to deliver a written answer within seven days.—*Reg.* II. 1819, *Sect.* 15.

The same subject continued.

It shall be the duty of the Collector, or other officer exercising the powers of Collector, carefully to number, mark, date, and sign all documents produced by a Zemindar, or other person in possession of the lands proposed to be assessed, in support of his claim, to hold them free of assessment, or as parcel of an estate for which a permanent settlement shall have been concluded, and to insert in his proceedings the title and number of such documents, so that no doubt may exist in regard to their having been exhibited before him; and the Collector shall, before proceeding to judgment, warn the party that no accounts or other documentary evidence of any kind which he shall not produce before him, and for not producing which he may not assign good and sufficient cause, will be received at any future period, either by the Revenue or Judicial authorities, and shall record his having done so on the face of his proceedings.—*Reg.* II. 1819, *Sect.* 16.

Witnesses for and against the claim of Government to be examined.

On receiving the answer of the party, the Collector shall summon any witnesses he may deem necessary to support the claim of Government, with any which the party may desire to have summoned on his behalf, and shall take their depositions in judicial form, and in the presence of the party, or his authorized agent.—*Reg.* II. 1819, *Sect.* 17.

Documents to be examined and the party to be allowed access to the documents in support of the claim of Government.

The Collector shall carefully examine all documents that may be produced by the party, and shall likewise give the party access to inspect all documents on which he may rely, in proof of the liability of the land to assessment.—*Reg.* II. 1819, *Sect.* 18.

Collectors vested with authority to examine witnesses on oath, &c. in judicial form.

The Collectors and other officers exercising the powers of Collectors, are hereby authorized to summon witnesses and administer oaths, or cause the execution of solemn declarations in lieu thereof, in all cases brought before them under this Regulation, conformably with the provisions of Section 6, Regulation IV. 1793, and Section 2, Regulation I. 1803, corresponding with Section 7, Regulation III. 1803, and Clause 6, Section 25, Regulation VIII. 1803, for the conquered and

ceded Provinces; provided that if any witness shall refuse to take the oath required from him, he shall be sent to the Judge of the Zillah or City Court, to be confined as prescribed by the Regulations in similar cases.—*Reg.* II. 1819, *Sect.* 19, *Cl.* 1.

Rule with regard to witnesses refusing to take the oath.

Any person giving intentionally and deliberately a false deposition on oath, or under a solemn declaration taken instead of an oath, relative to any proceeding depending before a Collector or other officer exercising the power of Collector, under this regulation, and upon a point material to the issue thereof, shall be held and considered guilty of perjury, and shall be liable to the penalties prescribed for that offence in the regulations; and any person causing or procuring another person to commit the offence of perjury, as above described, is declared guilty of subornation of perjury, and punishable under the provisions of the said regulations.—*Reg.* II. 1819, *Sect.* 19, *Cl.* 2.

Penalties for perjury and subornation of perjury in the existing Regulations applicable to such witnesses

Persons resisting any process issued by the Collector, or other officer exercising the power of Collector, in any case depending before him under this Regulation, shall, in addition to the penalty prescribed in Section 14, be liable to the penalties prescribed for cases of resistance to the process of a Collector in Regulation XIV. 1793, Regulation VI. 1795, and Regulation XXVII. 1803, under the provisions therein specified.—*Reg.* II. 1819, *Sect.* 19, *Cl.* 3.

Penalties for resistance of process.

The provisions of Clause first, Section 23, Section 25, and Section 28, Regulation VII. 1822, shall be applicable to cases investigated by Collectors, under the rules of Regulation II. 1819, or under the provisions of this Regulation.—*Reg.* IX. 1825, *Sect.* 5, *Cl.* 9.

Specific provisions of Regulations which the Collectors are to consider applicable to cases investigated by them.

[It is hereby declared and enacted, that in so far as concerns the summoning and examination of witnesses, the penalties for false testimony, for resistance of process, contempts, and all other similar matters, connected with cases under cognizance before the Collectors of land revenue, or other officer, by virtue of the powers vested in them by this Regulation, or any other Regulation, whereby Collectors are vested with judicial powers, their cutcherry or office for the time being shall be deemed and held to be a Court of Civil Judicature.—*Reg.* VII. 1822, *Sect.* 23, *Cl.* 1.]

Collector's Cutcherry shall be held a court of Civil judicature; and his decisions shall be deemed to be judicial awards.

[It shall be competent to the parties in all suits the cognizance of which is hereby vested in the Collectors of Revenue, to employ any agent, vakeel or representative, whom they may think proper to appoint, to act and plead in their behalves, provided such agent, vakeel,

Parties in suits tried by Collectors, may employ any vakeels or agents they think proper.

or representative, be duly empowered by the parties. The rate of remuneration to such agent or vakeel shall be left to be adjusted between himself and his constituent, but no greater sum shall be awarded on this account for costs payable by the party against whom the judgment may be passed, than what may be deemed by the Collector a fair equivalent for the attendance of such agent.—*Reg.* VII. 1822, *Sect.* 25.]

Collectors may try and determine suits in any part of their districts.

[It shall be competent to the Collectors to hear and determine such suits in whatever part of the district they may occasionally be or reside, provided that every hearing and decision be in public cutcherry, or in some other place open to the public, and in the presence of the parties or of their constituted agents or vakeel, if in attendance. —*Reg.* VII. 1822, *Sect.* 28.]

SECTION VI.

Proceedings of the Collector (Special Deputy Collector) after investigation, in Districts not with the Jurisdiction of a Special Commissioner.

Collector how to proceed on the completion of the enquiry.

Having closed his proceedings, the Collector shall record his opinion in a Persian roobakarry, detailing the grounds on which it is founded, and whether the lands appear liable to assessment or otherwise, and shall forward his proceedings to the Board of Revenue, or other authority exercising the powers of that Board, in such mode as may be directed by that authority, furnishing the party at the same time with a copy on plain paper of the final roobakarry aforesaid, and reporting his having done so to the Board, or other authority aforesaid. —*Reg* II. 1819, *Sect.* 20.

Boards how to act on the receipt of the Collector's proceedings.

The Board of Revenue, or other authority aforesaid, after calling for any further evidence which, on a consideration of the Collector's proceedings they may deem wanting, shall, on a day to be fixed by a public notice affixed in the office, not being less than six weeks from the date on which the Collector may have furnished the party with a copy of his final roobakarry, and after hearing any thing which the party if in attendance, may wish to urge in his own behalf, proceed to pass judgment in the case, and shall record their opinion in a Persian roobakarry, delivering a copy thereof to the party, on his requisition to that effect.—*Reg.* II. 1819, *Sect.* 21, *Cl.* 1.

Final roobakarries what to contain.

The final roobakarries, which the Collectors and the Boards are by the provisions of this Section directed to record, shall contain a distinct statement of the subject matter of the case, the grounds on which the decision may be given, the names of the witnesses whose depositions may have been taken, and the title of every exhibit read.—*Reg.* II. 1819, *Sect.* 21, *Cl.* 2.

In what cases the decision of the Boards to be final.

If the Board of Revenue or other authority aforesaid, pronounce against the assessment, the proceedings shall be considered final, except on proof in a Court of judicature of fraud or collusion in the previous enquiry.—*Reg.* II. 1819, *Sect.* 21, *Cl.* 3.

If the land be declared liable to assessment, the Collector to form the assessment.

In the event of the Board's declaring the lands liable to assessment, the Collector shall inform the party or his vakeel of the decision of the Board, and shall proceed to ascertain the limits of the land, and shall fix an assessment on the principles of the general regulations on such information as may be procurable.—*Reg.* II. 1819, *Sect.* 21, *Cl.* 4.

Under what circumstances the party may be left in possession of the land.

If the party shall within a fortnight of his receiving intimation of the Board's decision, tender to the Collector responsible security, for the payment, from that date, of the jumma which may eventually be fixed on the land, with interest at the rate of twelve per cent. and shall engage to institute a suit in the Court in which the case may be cognizable within ten days commencing from the date of the deed of security, or (if the Court shall be shut, and shall not be opened until after the expiration of such ten days) within three days, calculating from the day on which it may be opened, to try the justness of the demand, the Collector shall leave the party in possession as before, reporting the circumstance for the information of the Board; provided however, that in such cases the party shall produce all his accounts of collections for the information of the Collector, in estimating the amount of the security to be required.—*Reg.* II. 1819, *Sect.* 22, *Cl.* 1.

Proviso.

Collector how to proceed if the party do not furnish full security.

If the party be willing to give security for a portion only of the jumma eventually assessable on the land, it shall be competent to him to do so on the conditions above specified. In this case, the Collector shall, under the orders of the Board, either hold the lands khaus or farm them, for such period as the Board may direct, and shall pay to the party a portion of the collections proportionate to the amount for which he may

be willing and able to give responsible security.—*Reg.* II. 1819, *Sect* 22, *Cl.* 2.

The Court may determine on the sufficiency of the security tendered.

It shall be competent to the Court to direct the Collector to take the security offered by the party if he shall refuse to do so, and the Court shall be satisfied that it is sufficient; but it shall rest with the Collector, subject to the directions of the Board, to fix the amount for which the surety is to be held bound.—*Reg.* II. 1819, *Sect.* 22, *Cl.* 3.

Amount of security how to be regulated.

The amount shall not, in the first instance, exceed the estimated annual revenue assessable on the lands, or the amount receivable by the party in one year, with interest; but if at the expiration of one year from the date on which the party may receive intimation of the Board's decision, the suit shall still be pending, it shall be competent to the Collector to require additional security for the same amount.—*Reg.* II. 1819, *Sect.* 22, *Cl.* 4.

Ditto with regard to mocurrerees.

In mocurrerees the parties giving security, and intending to sue, shall continue to pay the mocurreree jumma, and will be required to give security for the remaining revenue, which may be eventually demandable from them.—*Reg.* II. 1819, *Sect.* 22, *Cl.* 5.

Provision regarding stampt paper and fees on such suits.

In cases in which parties whose lands the revenue authorities may adjudge liable to assessment, shall bring a suit to contest the decision, in the manner prescribed in Section 22, of this Regulation, the petition of plaint shall be received on stampt paper of the value of one Rupee: Provided however, that if the suit be decided in favor of Government, the plaintiff shall be answerable for the amount of the stampt duty which he would have had to pay under the ordinary rules regarding civil suits, in lieu of the institution fee, unless the Court shall decide that there was a fair ground for contesting the decision of the Board.—*Reg.* II. 1819, *Sect.* 27.

In what case the Collectors authorized to proceed to a final assessment.

If the party do not give security, or having given security neglect to sue, the Collector shall proceed to the final assessment of the land.—*Reg.* II. 1819, *Sect.* 23.

Limitation of time for the tution of su Civil Courts.

Persons whose lands may be assessed, either in failure to give security, or to institute a suit within the prescribed time, shall nevertheless be entitled to sue any time, within one year from the date of their being informed of the Board's decision, but after the above period shall have elapsed, the decision of the Board shall be final and conclusive; provided, however,

Proviso.

that in cases in which the party may be able to shew good and sufficient cause for not having sued within the said period, such as minority or absence, no limitation as to time shall prevail other than that generally prescribed by the existing Regulations in regard to private claims.—*Reg.* II. 1819, *Sect.* 24, *Cl.* 1.

Further Proviso.

Provided also, that in cases in which the Board of Revenue, or other authority exercising the powers of that Board, may have directed the resumption of lands held free of assessment under the powers vested in them by Regulation VIII. 1811, Regulation V. 1813, and Regulations XI. and XXIII. 1817, if the parties whose lands have been assessed shall be able to shew good and sufficient cause for not having instituted a suit to try the merits of the Board's decision within the period prescribed by those Regulations, they shall in like manner be subject only to such limitation in respect to time, as is prescribed generally in regard to private claims.—*Reg.* II. 1819, *Sect.* 24, *Cl.* 2.

Decisions passed by the Boards of Revenue under Section XXI. Regulation II 1819, to be carried into execution, notwithstanding the parties may have sued to contest the decision.

All decisions which have been, or may be passed by the Boards of Revenue, under the rules in Section 21, Regulation II. 1819, declaring the liability to assessment of lands, whether the same be situated in districts, to which the jurisdiction of a Special Commissioner has been extended, or in any other district, shall be carried into immediate execution by the Collectors or other local Revenue Officers of such district, notwithstanding that the parties against whom such decisions may have been or may be passed, shall have sued or shall sue to contest the Board's decision in one of the established Courts of Justice, or to the Commissioner appointed under this Regulation, and such parties shall not be permitted to retain possession of the lands, unless they enter into an engagement to pay the assessment which may be fixed upon them; such assessment to be collected under the general rules for the realization of the Government revenue from farmers thereof: And if any person against whom the Board may have decided, shall decline to pay the assessment fixed on the lands, he shall be forthwith dispossessed, and such arrangements shall be made for the collection of the Government Revenue as the Collector, under the orders of the Board, may see fit to adopt: But in the event of a final decision being passed, exempting the

Persons declining to pay assessment to be dispossessed, and the Collector to make arrangements for the Collection of the Revenue.

But if the land be finally exempt-

ed, the collections made to be refunded with interest.

tenure of any such person from assessment, the net collections made on account of Government shall be refunded with interest thereon at the rate of 6 per cent. per annum.—*Reg.* III. 1828, *Sect.* 10, *Cl.* 2.

Suits instituted in Courts, to contest the Board's decision in cases in which the jurisdiction of the Courts is not barred by this Regulation, how to be heard and determined.

All suits, which may be instituted in the established Courts of Justice, under the provisions of Sections 22 and 24, Regulation II. 1819, and Section 5, Regulation IX. 1825, to contest decisions of the Boards of Revenue, shall, when the jurisdiction of the above Courts is not barred by the operation of this Regulation, be heard and determined in the same manner as regular appeals, and no further pleadings shall be required or received in such cases than the objections of the appellant to the decision of the Board, and the reply to those objections on the part of the Revenue authorities, the said Courts shall likewise, on the admission of an appeal, invariably call for the original record of the Board's proceedings in each case, and shall then require the parties to file their pleadings as above provided; but it shall not be competent to the Courts to take further evidence, oral or documentary, unless it shall appear that such evidence was tendered by the party adducing it, to the Collector or the Board, and was then rejected on insufficient grounds, or that such evidence is essential to the ascertainment of some fact material to the issue, which may not have been fully enquired into in the course of the previous investigation.—*Reg.* III. 1828, *Sect.* 10, *Cl.* 3.

Proviso that appeals are still to be admitted from inferior to superior Courts, as heretofore.

Provided however, and it is hereby enacted, that nothing contained in the preceding Clause shall be construed to bar the admission of a further appeal on the part of the Revenue authorities to the Provincial Courts, or the Court of Sudder Dewanny Adawlut, from decisions passed in the first instance in the Zillah or the Provincial Courts respectively, in cases of the nature described, and specially provided for in Section 6, Regulation XIV. 1825, nor the admission by those tribunals of the special appeal on the application of the party opposed to Government, under the rules in Section 26, Regulation II. 1819.—*Reg.* III. 1828, *Sect.* 10, *Cl.* 4.

Appeals from decisions of Boards of Revenue to be kept on a distinct file or Register, and Civil Courts to appropriate one day in the week to

Appeals filed in the established Courts of Civil Judicature to contest decisions of the Boards of Revenue, shall be kept on a file or Register distinct from that on which other suits before those Courts are entered, and the Civil Courts are hereby directed and required to appropriate the first day in

each week to the trial and decision of such appeals, and to prevent any unnecessary delay on the part of the appellant in prosecuting their appeals by a strict enforcement of the rules prescribed in Section 12, Regulation XXVI. 1814.—*Reg.* III. 1828, *Sect.* 10, *Cl.* 5.

their trial and decision.

The Sudder Board of Revenue having had occasion to observe, in several instances, that more consequence appears to be attached to the admission of cases under Regulation II. of 1819, and III. of 1828, than to the determination of them; I am directed to request that you will impress upon the minds of the Collectors in your Division that their time will be more judiciously employed in hearing and deciding cases that have been admitted, until their number is considerably reduced, than in the admission of new ones; and that while the mere accumulation of undecided cases can have no beneficial result, the neglect of due precaution, in the first instance, may afford great opportunity of corruption and extortion to dishonest Native Umlahs.—*Letter from the Sudder Board of Revenue to the Commissioners of Revenue.—Cir. Ord. S. B. R. No.* 45, *Sept.* 6, 1831.

Collectors enjoined to hear and determine the suits standing on the files of Reg. II. 1819, and III. 1828, rather than admit new cases.

The powers vested by Regulation II. 1819, and Regulation IX. 1825, or other Regulations in force, in the several Boards of Revenue, in regard to the investigation and decision of claims to lands held exempt from the payment of public revenue, or at a fixed and inadequate jumma, under an invalid tenure, shall, with the exceptions provided by Regulation III. 1828, be exercised by the Local Commissioners within the limits of their respective jurisdictions; to whom the Collectors and other Local Revenue officers shall transmit the reports and proceedings which, by the Regulations in force, they are required to furnish to the Board of Revenue.—*Gen. R. of P. No.* 7, *Rule* XXXVI.

Commissioners to exercise the powers of the Board of Revenue under Regulation II. 1819, and IX. of 1825, in regard to Resumption cases.

With the exceptions provided by Regulation III. 1828.

And Collectors,* &c. shall report to them.

* Or Special Deputy Collector.

The Local Commissioners are empowered to sanction the resumption of lands by a Collector, under the provisions of the Regulations above noticed, and the orders passed by the Commissioner shall be conclusive, unless the Sudder Board shall see reason in any cases, on special grounds to admit an appeal; and in all cases the party whose lands may be so assessed, shall be at liberty to institute a suit in the established courts of jus-

Commissioner may sanction resumptions under Reg. II. 1819, and IX. 1825.

And his orders conclusive, unless the Sudder Board admit an appeal.

But the party may appeal to the Civil Court.

tice within the period prescribed by Clause 1, Section 22, Regulation II. 1819, to try the validity of his claims.—*Gen. R. of P. No.* 7, *Rule* XXXVII.

SECTION VII.

Proceedings of the Collectors, after the investigation of claims, in districts within the jurisdiction of a Special Commissioner.

On the establishment of a Commissioner's jurisdiction in any particular district, the Collector or other local officer may institute enquiries under Regulation II 1819, and Regulation IX 1825, without previous sanction of the Board

When the jurisdiction of a Commissioner shall have been established in any particular district, it shall be competent to the Collector or other local Revenue Officer of such district to institute the enquiries specified in Regulation II. 1819, and Regulation IX. 1825, in regard to any lands, which he may have reason to believe are held free of assessment, or at an inadequate jumma under an invalid tenure, or which being unoccupied he may consider to be public property, without previously applying for the sanction of the Board of Revenue.

In all other cases he is to proceed in the manner provided for in those Regulations.

And having closed his proceedings, he will record his judgment as to the liability of the lands to assessment or otherwise Such decision to have the force and effect of a decree, and copy to be furnished to the party.

In all other respects, however, he is to proceed to the investigation of the case in the manner provided for in Regulation II. 1819, and Regulation IX. 1825, accordingly as the one or other may apply to the case, and having closed his proceedings, he shall record in a Persian Roobukaree his judgement as to the liability of the lands to assessment or otherwise, in the manner directed in Section 20, of the first mentioned Regulation, and such decision shall have the force and effect of a decree, and a copy thereof on plain paper shall as soon as possible be delivered to the party concerned.—*Reg.* III. 1828, *Sect.* 4, *Cl.* 1.

If the judgement is for assessment, the party against whom the decision is passed, to be at liberty to appeal to the Special Commissioner, within two months.

Appeals may be admitted by Commissioner after that period, on sufficient cause shewn.

Petitions of appeal may be pre-

If the decision of the Collector shall declare the lands liable to assessment, or shall adjudge them to be the property of Government, it shall not be necessary for him to transmit his proceedings to the Board of Revenue, or to the Special Commissioner, but the party against whom such decision is passed shall be at liberty to appeal from the same to the Special Commissioner within two months from the date on which a copy of the decision may have been tendered to him by the Collector: but it shall be competent to the Commissioner to admit on appeal, after the expiration of the above period, on sufficient cause being shewn why it was not sooner preferred. Provided also that petitions of appeal may, at the option of the party,

be either presented to the Special Commissioner or delivered to the Collector, for transmission to that authority.—*Reg.* III. 1828, *Sect.* 4, *Cl.* 2.

sented to the Commissioner, or delivered to the Collector for transmission to him.

It has been brought to the notice of the Sudder Board of Revenue that the Resumption Officers in some instances have misapprehended the nature and extent of their judicial powers, and, after declaring a rent-free tenure to be liable to assessment, have proceeded to direct with whom the settlement of the resumed lands shall be made. I am therefore instructed to request that you will call the attention of the Officers employed in resumption duties within your Division to Section 4, Regulation XIX. of 1793, and will point out to them that the only question upon which they are competent to decide is the liability to assessment or otherwise of lands now held rent-free. —*Letter to the Commissioner of Revenue. Cir. Ord. S. B. R. No.* 13, *March* 18, 1840.

It shall and may be lawful for the Collector, whether an appeal be filed or not, immediately to carry into effect his decision by attaching and assessing the land; reporting his proceedings for the information and orders of the Board, or of the Commissioner, if vested with the powers of the Board: provided however, that in cases appealed to the Commissioner, it shall be competent to that authority to stay execution of the Collector's decree, and to cause the attachment of the land to be suspended or withdrawn on due security being tendered by the appellant for the payment, from the date of the Collector's decision, of the Revenue which may ultimately be assessed on the land.—*Reg.* III. 1828, *Sect.* 4, *Cl.* 3.

Collector empowered to carry his decision into effect, whether an appeal be filed or not, reporting his proceedings to the Board, or the Commissioner.

Commissioner may stay execution of Collector's decree in cases appealed, and suspend attachment of land, on security for payment being tendered.

If the Collector shall decide against the assessment, he shall report his proceedings, together with the whole record of the case to the Board of Revenue, who are to take the case into their consideration, and if they shall be of opinion that the grounds assigned by the Collector for considering the lands exempt from assessment are insufficient or invalid, it shall be competent to the Board, within one year from the date on which they may receive the Collector's proceedings, to transfer the case for revision and final orders to the Special Commissioner, who shall issue a notice requiring the attendance of the party in whose favour the Collector may have decided; and should such party neglect, after having been duly summoned, to attend and defend the appeal before the Commissioner, it shall

If Collector decide against assessment, he will report his proceedings to the Board.

Who will, if dissatisfied with the grounds of the Collector's decision, transfer the case for revision and final order to the Special Commissioner within one year.

Commissioner to issue notice to the party requiring his attendance —if party neglect to attend, Commissioner empow-

ered to hear and decide exparte.

be competent to the Commissioner to hear and decide the case exparte.—*Reg.* III. 1828, *Sect.* 4, *Cl.* 4.

If the lands be within the Special Commission, Collector to report to the Local Commissioner.*
** Or Special Deputy.*

And the party at liberty to appeal to the Special Commissioner.

In the event of the lands declared by a Collector liable to assessment being situated within the limits of the jurisdiction of a Special Commissioner appointed under the provisions of Regulation III. 1828, the Collector shall proceed as directed in Clause 2, Section 4, of that Regulation, reporting his decision for the information of the Local Commissioner to whose authority he may be subject, and the party whose lands may be assessed shall be at liberty to appeal to the Special Commissioner in the manner therein prescribed.—*Gen. R. of P. No.* 7. *Rule* XXXVIII.

Collector to report decisions against assessment to the Local Commissioner.*
** Or Special Deputy.*

And the Commissioner may refer the case to the Special Commissioner for final orders.

If the Collector shall decide against the assessment, he shall report his proceedings to the Local Commissioner to whose authority he may be subject, as directed by Clause 4, Section 4, of the said Regulation, and the Local Commissioner, if he shall disapprove the grounds of the Collector's decision, shall be competent to refer the case, within the period therein prescribed, to the Special Commissioner for revision and final orders.—*Gen. R. of P. No.* 7, *Rule* XXXIX.

Settlement Officers to hold proceedings in every Lakheraj case under Reg. IX. 1825, to be submitted, if against assessment, to Commissioner, who will record his order of confirmation or appeal.

Much inconvenience having been experienced by the Sudder Board of Revenue, when employed in testing settlements, owing to the omission on the part of Settlement Officers, acting under Regulation IX. of 1825, to submit to the Commissioner of the Division, their proceedings in all cases of rent-free holdings, heard and determined by them, in favour of the parties, as directed in Clause 4, Section 4, Regulation III. of 1828, the Board having no jurisdiction or right of interference in such cases, however erroneous the decision may appear to them, you are requested to call the attention of all the Settlement Officers in your Division to this point, instructing them to hold distinct proceedings, in each and every case decided by them, and where that decision may be against assessment, to transmit the case for your orders, within 15 days from the date of their decision.

2. On your part, you will be pleased to record, in a Roobakaree, to be filed with the settlement papers to be transmitted to this office, the result of your review of the Settlement Officer's proceedings, whether for confirmation or for an appeal to the Special Commissioner.—*Letter to the Commissioners of Revenue. Cir. Ord. S. B. R. No.* 43, *June* 1, 1837.

I am directed to transmit, for your information and that of the Collectors of the new Rule of Practice alluded to in my letter, dated the 10th ultimo, for disposing of cases decided by Collectors against assessment, in Divisions where the Local Commissioner of Revenue is vested, at the same time, with the powers of Special Commissioner under Regulation III. 1828, the same having been sanctioned by the Governor General in Council, under date the 28th ultimo.

New Rule of Practice for disposing of cases decided against assessment, where the Local Commissioners are Special Commissioners under Reg. III. 1828.

Copies accompany for the observance of the Collectors.

Preamble. The Governor General in Council having been pleased to resolve, that, in modification of the XXXIX. Rule of General Practice, whereby the Local Commissioners are vested with the duty assigned in Clause 4, Section 4, Regulation III. 1828, to the late Boards of Revenue, an exception shall be made to those Commissioners, who at the same time exercise the functions of a Special Commissioner; the following course will be hereafter pursued for the discharge of that duty within the Divisions so circumstanced.

Rule. If the Collector of a District, included within the Division of a Local Commissioner, likewise exercising the powers of Special Commissioner, under the provisions of Regulation III. 1828, in such District, shall decide against assessment, he shall report his proceedings, together with the whole record of the case, to the Sudder Board of Revenue, who are to take the case into their consideration, and, if they shall be of opinion, that the grounds assigned by the Collector for considering the lands exempt from assessment are insufficient or invalid, it shall be competent to the said Board, within one year from the date on which they may receive the Collector's proceedings, to transfer the case for revision, and final orders, to the Special Commissioner; and in regard to forms and processes, the same rule shall be observed for such cases as are prescribed by the existing Regulations.—*Letter to the Commissioners of Assam and Chittagong. Cir. Ord. S. B. R. No.* 66, *Oct.* 1, 1830.

The following letter is circulated by order of the Sudder Board of Revenue, for the information of all the officers subordinate to them.

Relative powers of Local Commissioners and Special Resumption Deputy Collectors.

I am directed to acknowledge the receipt of your letter, dated the 4th ultimo, with the enclosed copies of correspondence with Mr. Special Deputy Collector Crawford, and to state in reply as follows.

2. The Board are of opinion that you may legally call upon a Special Deputy Collector to furnish you with any information necessary to enable you to form your own judgment as to the sufficiency and validity of the *grounds* assigned by the Collector for considering the lands exempt from assessment. Without this power, you could not properly fulfil the duty entrusted to you, of appealing to the Special Commissioner those cases in which the claims of Government may appear to you to have been improperly set aside.

3. The Board, however, conceive it to be utterly beyond your authority to direct a revision of a Special Deputy Collector's Decrees. The existence of such a power would be manifestly unjust, unless the holders of rent-free tenures had a corresponding guardian of their interests, vested with similar authority to direct a revision of decrees given against them; and the attempt to add to the severity of the resumption laws, by the introduction of such a plan of proceeding, would be highly objectionable and inexpedient.

4. The year allowed for appealing dates from the receipt of the record of the case by the Local Commissioner, but it is within the discretion of the Special Commissioner to allow a prolongation on sufficient reason being shown. In the Patna case, referred to by Mr. Crawford, the year had expired pending a reference back to the Resumption officer. The Special Commissioner would not hear of this plea, and rejected the appeal, not because such a reference had been made back to the Resumption officer, but because the year of appeal had expired. It will, therefore, be incumbent on you, on receipt of a Resumption Officer's proceedings, to review them without loss of time, that in case you find it necessary to call for any further information, the case may be completed and the appeal preferred (if it be proper to appeal) within the year or the Special Commissioner be applied to, to grant a further period for preferring the appeal beyond the year.

5. The Sudder Board fully admit that, with the exception pointed out, Special Deputy Collectors are in every respect as completely subject to your control as any other Collectors or Deputy Collectors.—*Letter from the Additional Secretary, Sudder Board, to the Commissioner of Cuttack, dated* 6*th June*, 1837. *Cir. Ord. S. B. R. No.* 52, *June* 10, 1837.

A case having been recently brought to the notice of the

Sudder Board of Revenue in which Government has suffered a heavy loss in consequence of the Revenue Commissioner having considered himself at liberty, under Clause 4, Section 4, Regulation III. of 1828, to direct a re-investigation of a resumption suit decided against Government, and having thus allowed the prescribed period for an appeal to the Special Commissioner to elapse, I am directed to call your attention to the Circular Orders of this Board of the 10th June, 1837, (page 731 of Peter's Circulars,) and again to remark that no judicial powers whatever are vested in the Revenue Commissioners by the Clause in question, and that if they shall in any case be of opinion that the grounds assigned by the resumption Officer for considering the lands exempt from assessment are insufficient, or invalid, or that due investigation has not been made, their proper course is to prefer an appeal within the period of one year to the Special Commissioners. The Revenue Commissioners may, within the prescribed period legally call upon the Special Deputy Collector to furnish any information they may consider requisite to enable them to determine as to the expediency of an appeal, but they have no authority to direct the resumption Officer to retry the case.—*To all Commissioners of Revenue (except Assam, Arracan, Tenasserim and Hazareebaugh). Cir. Ord. S. B. R. No.* 10, *Feb.* 29, 1840.

The Sudder Board of Revenue having had under their consideration the present mode of conducting appeals preferred to the Special Commissioners by the Commissioners of Revenue against the decisions of the Resumption Officers, direct me to call your attention to Section 16 of the Rules of Practice annexed to Regulation III. of 1828, and to request that you will in future upon referring any case to the Special Commissioner for revision and final orders (which you are of course competent to do of your own authority under the 39th Rule of Practice circulated by the Board on 2nd March 1829,) forward to this office a statement of the ground on which you are dissatisfied with the Resumption Officer's decree, together with a copy of the decision, upon the receipt of which the necessary pleading will be prepared and filled in the Special Commissioner's Court.

2. In consequence of an arrangement recently sanctioned by Government for supplying this office with the stamps required for the conduct of Government suits pending in the Pre-

sidency Courts, it will not be necessary for you to forward the Stamp Paper as has hitherto been the practice.—*Letter to the Commissioner of Revenue. Cir. Ord. S. B. R. No.* 43, *June* 16, 1838.

I am directed by the Sudder Board of Revenue to inform you that the Honourable the Deputy Governor has been pleased to sanction a modification, proposed by them, of the 39th Rule of Practice.

The Modified Rule to be substituted for the old one is as follows.

If the Collector (or other Resumption Officer) shall decide against the Assessment, he shall report his proceedings to the Local Commissioner, to whose authority he may be subject, as directed by Clause 4, Section 4, of the said Regulation; and the Local Commissioner, if he shall disapprove the grounds of the Collector's (or other Resumption Officer's) decision, shall report the case to the Sudder Board, who will determine whether an appeal should be preferred to the Special Commissioner.—*Letter to the Commissioner of Revenue. Cir. Ord. S. B. R. No.* 1, *Jan.* 8, 1839.

The Board concur in your opinion that it is not expedient to delay the institution of resumption suits, on account of the disqualification of the proprietor of the Estate within which the rent-free tenures are situated. Precautions must however be adopted for the special protection of the Ward's interests, and, for this purpose, the Board desire that you will request the Resumption Officer to issue his notice to the Collector, upon the institution of any suit for the investigation of a tenure situated within an Estate under the jurisdiction of the Court of Wards. It will be the duty of the Collector, upon the receipt of such notice, to ascertain in communication with the appointed Guardians and family of the disqualified proprietor, what is the nature and origin of the tenure, and to report the case through the Commissioner without delay for the consideration of the Court of Wards, by whom the suit will be defended through their Deputy Superintendent of Legal Affairs, should it appear to them that the interests of the Ward are involved in the result. You will further request the Resumption Officer in such cases to consider the Collector as the party entitled under Clause 1, Section 4, Regulation III. of

1828, to a copy of his decree, and, should the decision be against the minor, the Court of Wards will, upon the report of the Collector and Commissioner, determine as to the expediency of preferring an appeal to the Special Commissioner. —*Extract of a letter addressed to the Commissioner of Cuttack, No. 7, dated 17th April* 1839.—*Cir. Ord. S. B. R. No.* 1, 17*th April,* 1839.

Any serious cases of distress under the Resumption Laws to be reported to the Sudder Board.

Should it appear to a Local Commissioner that the resumption of lands held free of assessment would, in any case, occasion serious distress to the holders, he shall submit a report of the circumstances of the case to the Sudder Board, who, should they concur in opinion with the Local Commissioner, will forward the same, with their sentiments, for the consideration and orders of the Governor General in Council.—*Gen. R. of P. No.* 7, *Rule* XL.

And by the Board to Government.

2. His Lordship concurs in opinion with the Board, which appears from Mr. Walters' second minute of the 13th instant to be unanimous on the subject, that it is not expedient that they should promulgate, for the guidance of the Special Deputy Collectors, in their capacity of public prosecutors, an authoritative digest and construction of the Resumption laws: the more so, because those officers are in no wise subject to the direction or controul of the Board, in the exercise of their judicial functions.

3. At the same time his Lordship is of opinion that the Board might not only unobjectionably, but with great advantage lay down, for the instruction of the Special Deputy Collectors, general rules and principles of procedure, calculated to ensure uniformity of practice, and all possible consideration for the parties contesting the claims of Government, consistent with the assertion of the unquestionable rights of the state; as well as to obviate any misconceptions,—if such are likely to obtain,—in regard, either to the views of Government or to the rights guaranteed to the Zemindars by the permanent settlement. It was to instructions of this nature that the Governor referred in Para. 3 of his orders of the 13th of December last, to which Mr. Walters alludes in his minute of the 13th instant.

4. The Governor has already expressed his sentiments with

respect to the obligation of the Board to "afford the benefit of their extensive information and experience to the officers employed in the enforcement of the Resumption laws," "with regard to Towfeer and alluvion cases in particular, especially the former;" and he thinks it highly desirable that the Special Deputy Collectors should be encouraged to seek the counsel of the Board upon all points of doubt and difficulty—such counsel, indeed, the Board in their capacity of Superintendents of Legal Affairs are bound to render to all Officers, conducting suits in which the public interests are involved.—*Extract of a letter from the Secretary to the Government of Bengal, Revenue Department, to the Sudder Board of Revenue, No.* 763, *dated* 30*th May*, 1837.

Reply of the Board, No. 313, *dated the* 23*rd June*, 1837.

2. In reply to the 2nd and 4th Paras. the Board desire me to state that they will, as desired by the Right Honourable the Governor, in their capacity of Superintendent and Remembrancer of Legal Affairs, give their opinions to the Special Deputy Collectors on any points of legal difficulty which may be referred to them. They are, however, aware, that it will be perfectly optional with the Special Deputy Collectors, in their judicial capacity, to act according to their advice or not.

3. In reply to the 3rd para. they desire me to say that they have furnished, and shall continue to furnish instructions, to the Commissioners and Special Deputy Collectors, on all matters of practice and procedure, connected with the Resumption operations in progress.

Reply of Government to the above, dated 6*th July*, 1837.

1. I am directed by the Right Honourable the Governor of Bengal to acknowledge the receipt of your letter (No. 313) of the 23rd ultimo, and to request that you will inform the Board in reply, that their intentions in regard to furnishing "instructions to the Commissioners and Special Deputy Collectors on all matters of practice and procedure connected with the Resumption operations in progress," and in their capacity of Superintendents and Remembrancers of Legal Affairs, "their opinions" to the latter officers "on any points of legal difficulty which may be referred to them," are entirely satisfactory to his Lordship.—*Cir. Ord. S. B. R. No.* 67, *Aug.* 2, 1837.

I am directed by the Sudder Board of Revenue to communicate to you, for the information of the resumption officers under your controul, that they are of opinion, that no Resumption cases should be decided during the period the Civil Courts are closed, but that there is no objection to preliminary inquiries being carried on, at such intervals, either at the Sudder Station, or in the Mofussil.—*Letter to the Commissioners of Revenue. Cir. Ord. S. B. R. No.* 21, *March* 28, 1837.

Resumption cases not to be decided when Civil Courts are closed; but preliminary inquiries may be made at such times.

The Sudder Board of Revenue deem it expedient that the Circular Order of the 28th March 1837, which declares "that no Resumption cases should be decided during the period the Civil Courts are closed" should be limited to those cases, in which the parties may not be in attendance, and that resumption officers should be permitted to try and decide, during such period, all cases, in which the parties may voluntarily attend and defend the suit. But it must be understood that such attendance should on no account be *coerced* during the great festivals, either of the Mahomedan or Hindoo religion.

2. You will be pleased to instruct the officers under your jurisdiction accordingly.—*Letter to the Commissioner of Revenue. Cir. Ord. S. B. R. No.* 61, *Sept.* 4, 1838.

The Sudder Board of Revenue have had before them several references, shewing the inconvenience experienced by the Special Deputy Collectors, in consequence of their not being at liberty to draw on the treasuries of the Districts, in which they are respectively located. To remove that inconvenience, they are pleased to direct, with the advice of their Accountant, that you will authorize the Collectors, in your Division, to advance to Special Deputy Collectors such sums, required for temporary disbursement, as have previously received your sanction, and instruct them to hold such advances in their inefficient balances, in the name and at the responsibility of the officers drawing the money, until audited bills are furnished for the adjustment of accounts.

Providing for the disbursements of Special Deputy Collectors.

2. In compliance with a suggestion of Mr. Dorin, the Board direct me to request, that you will call the attention of the Special Deputy Collectors to the necessity imposed by the orders of Government, in the Financial Department, under date the 26th January, 1835, of obtaining in all practicable

cases, *monthly* audit for all advances received by them from a Collector's treasury.

3. You will, of course, understand that these orders do not confer on you any power to sanction charges, either temporary or permanent, with which you were not previously vested; and that any new demands that may arise, for the disbursements of sums under the head of miscellaneous charges, beyond 500 Rupees, must be reported in the usual manner to the Board. The object of these orders is to enable the Special Deputy Collectors to obtain without delay, from the treasuries, sums of which the disbursement has been regularly sanctioned under existing orders.—*Letter to the Commissioners of Revenue. Cir. Ord. S. B. R. No.* 31, *May* 9, 1837.

Resumption officers to employ additional peons under controul of Commissioners, and not to levy Tulubana.

I am directed to inform you, that if the fixed establishment of Peons attached to the offices of the Special Deputy Collectors in your Division prove insufficient for the work which has to be done, you are permitted to authorize the employment, on fixed salaries, of as many more as may be required. The additional expense on this account should be charged in a monthly contingent bill to be passed by you, and you will be particularly careful that nothing is disbursed, which is not absolutely necessary.

2. Tulubana is in no case to be levied by Special Deputy Collectors.—*Letter to the Commissioners of Revenue. Cir. Ord. S. B. R. No.* 56, *June* 20, 1837.

SECTION VIII.

Measurement and disputed boundaries.

Collectors, &c. engaged in the settlement of Mehals empowered to have such lands measured without awaiting a previous reference to the Board of Revenue.

It shall likewise be competent to Collectors and other officers aforesaid, when engaged in the settlement of any Mehal under the rules of the regulation above mentioned, or preparatory thereto, to measure or cause to be measured, without a previous reference to the Board of Revenue, all lands, whether Malgoozaree or Lakheraj, belonging or adjoining to the village or villages in which such Mehal or any part thereof may be situated.—*Reg.* IX. 1825, *Sect.* 5, *Cl.* 3.

Adverting to the lumping manner in which the Permanent

Settlement of the greater majority of the Districts of Bengal proper was formed, and the general want of ascertained and recorded land-marks, there is, necessarily, great difficulty in ascertaining the identity of particular lands, and consequently preventing the fraudulent amalgamation of tenures, held free of rent on invalid titles, with the permanently settled Muhals to which they adjoin, whenever the interests of the parties in possession may dictate such a measure, for the purpose of defeating the just claims of Government to assess lands not on the Public Rent-roll, or legally exempt from taxation? On this account you are requested, especially, to place the Deputy Collectors on their guard against the frauds which will assuredly be attempted, and in many instances probably with success, if they do not ascertain the existence and extent of lands, claimed as rent-free, previously to investigating the validity of the tenure. At the earlier stages of proceeding the parties in possession will be generally ready to point out their lands, and a definition of boundaries; and, in cases where these are defective, actual measurement should be resorted to, whenever such a measure can be adopted without infringement of any of the rights and privileges, conferred on the Zemindars or proprietors of permanently assessed estates by the Decennial Settlement, and not otherwise.

It occurs to the Board that, for the purpose of conducting preliminary inquiries of the above nature, one or more Native Deputy Collectors, with a suitable Measuring Establishment, might advantageously be employed under the Special Deputy Collectors; but on this head, as well as on many others, the Board are unable, in the absence of local information, to issue any detailed instructions. You are, therefore, requested to desire Mr. * * * and Mr. * * *, as soon as they shall have made themselves acquainted with the nature and extent of the business entrusted to them, to submit a report of the same, together with their own sentiments as to the best means of rendering their services more efficient.

For this purpose, as well as to assume charge of the Lakheraj records, and to put in progress inquiries calculated to ripen cases for decision, at a future periodical visit, it appears desirable that the Deputy Collectors should be required, in the first instance, to visit the Districts of their jurisdictions with the least practicable delay.—*To the Commissioners of Revenue for*

the Divisions of Moorshedabad, Bauleah, Dacca, and Jessore. Cir. Ord. S. B. R. No. 1, Jan. 2, 1837.

Explanatory of Para. 8, C. O. No. CCCXLII. regarding measurements in Resumption cases.

I am directed by the Sudder Board of Revenue to communicate the following explanation, which is considered necessary in regard to the clauses underlined, of the passage quoted in the margin* from their Circular instructions of the 2nd January last, No. 1, Paragraph 8.

2. The concluding clause was introduced into those Circular instructions, without due advertence to the connection in which it stands to the measurement of *lands claimed as rent-free.*

3. The measurement, whether of lands claimed to be held free of assessment, or of the Estates upon which they abut, when necessary to the just determination of the Lakheraj claim, is not intended to be prohibited: such a proceeding, in order to assert the rights of the state to lands claimed to be held free of assessment, is not at variance with any of the rights or privileges conferred on the Zemindar by the perpetual settlement; nor can it be seriously objectionable to any proprietor of honest intentions. The disinclination of any Zemindar, whose object is to screen the fraudulent conduct of a neighbour or his own, is not worthy of consideration.

4. It is the duty, and should be the purpose, of those parties to whom a fixed tenure is guaranteed by the Permanent Settlement, to further every endeavour to assert the just claims of the Government, from which they derive their possession and their security; and to bring under contribution to the service of the State, those lands which have hitherto obtained an unauthorized exemption, under illegal or invalid titles. Nor should they less readily give their aid, and submit, as the State requires it, to a temporary inconvenience, as the consequence of a measurement may be the Permanent recognition of duly registered and valid titles, which circumstances may,

* On this account you are requested, especially to place the Deputy Collectors on their guard against the frauds which will assuredly be attempted, and in many instances probably with success if they do not ascertain the existence and extent of *lands claimed as rent-free* previously to investigating the validity of the tenure. At the earlier stages of proceeding the parties in possession will be generally ready to point out their lands and a definition of boundaries; and in cases where these are defective, actual measurement should be resorted to *whenever such a measure can be adopted without infringement of any of the Rights and Privileges conferred on the Zemindars of Proprietors of Permanently assessed Estates by the Decennial Settlement, and not otherwise.*

for a time, lead the officers of Government entrusted with the powers of resumption, to question.—*Letter to the Commissioners of Revenue. Cir. Ord. S. B. R. No.* 71, *August* 22, 1837.

Disputes respecting the boundary of Muhals declared liable to assessment under the Provisions of Regulation III. 1828, must, of course, be disposed of under the direction of the Special Commissioners, who are alone competent to superintend the execution of their own decrees.—*To the Commissioners of Revenue. Cir. Ord. S. B. R. No.* 29, *Nov.* 12, 1833, *Pr.* 6.

The annexed Extract, from Orders of Government, dated 11th September 1838, is circulated for the information and guidance of all settlement officers, in explanation of that part of Section 6 of the Board's Circular Orders of the 12th November 1833, which prescribes, that, "disputes respecting the boundaries of Mehals declared liable to assessment "under the provisions of Regulation III. of 1828, must be disposed of under the direction of the Special Commissioners "who are alone competent to superintend the execution of "their own decrees."—*To the Commissioner of Revenue. Cir. Ord. S. B. R. No.* 68, *October* 16, 1838.

"There may certainly be cases, in which, injustice would be done by causing disputed boundaries of the nature referred to, to be summarily decided, in process of execution of decree by the Resuming Officer. There are at the same time many obvious cases in which such a mode of deciding the dispute would be very just and right whether any given case lies on the one side or on the other of this supposed line; whether the decision should be made summarily by the Resuming Officer in the course of executing his decree, or after full investigation in a new and separate Resumption suit, can only be declared according to the particular circumstances of that case, and by a tribunal competent to pronounce upon the distinction. It is therefore His Honor's opinion that, in all disputed boundaries of the nature in question, the Revenue Officers should apply for decision in the first instance to the Resumption tribunal from which the final decree emanated; and that the Resumption tribunal so applied to, should, upon an understanding of the circumstances of each case, either decide summarily in process of execution of its decree, or direct the institution of a new suit; according to the true nature of the cir-

cumstances set forth."—*Extract from Paragraph 4th of a Letter from the Secretary to the Government of Bengal in the Revenue Department, dated 11th September,* 1838, *No.* 1583. *Cir. Ord. S. B. R. No.* 68, *October* 16, 1838.

In modification of the Circular Orders of the 16th October last, No. 68, the annexed Extract from orders of Government under date the 8th ultimo, is circulated for the information and guidance of all Officers, employed on the Resumption and Settlement of Lakheraj lands under your authority.—*Letter to the Commissioner of Revenue. Cir. Ord. S. B. R. No.* 23, *Sept.* 11, 1839.

I am directed by the Honourable the Deputy Governor of Bengal to state that, at the suggestion of the Supreme Government, His Honour has been pleased to modify in the following manner the Orders conveyed to the Board by my letter No. 1583, of the 11th September last.

2. When an enquiry in regard to the liability of land to assessment shall have been instituted under any of the provisions of Regulation II. 1819, it shall be incumbent on the Officers employed in conducting the proceedings, if the position, extent, or existence of such land has not been satisfactorily ascertained, to establish the same by means of local enquiry, and if necessary, by accurate survey and measurement, before passing any decision declaring such land liable to assessment. This rule, His Honour understands, has been already laid down by the Board, and circulated to the Resumption Officers.

3. The Resumption Courts must of course carry into execution their own decrees in the mode prescribed by the Regulations. But if land denied to be included in such decrees were not in the occupation of the Lakherajdar, when the suit against him was instituted, but in the occupation of some other person, who was not a party to the Resumption suit, such land cannot be subjected to assessment by the Revenue authorities without the institution of a new resumption suit against the party actually in possession.—*Extract from the Orders of Government, No.* 1124, *dated 8th August,* 1839. *Cir. Ord. S. B. R. No.* 23, *Sept.* 11, 1839.

SECTION IX.

Special Commissioners.

By the provisions of Regulation II. 1819, and other Regulations subsequently enacted, Collectors and other local Revenue Officers, throughout the provinces subordinate to this Presidency, have been empowered, with the sanction of the Boards of Revenue, to institute enquiries with a view to the resumption and assessment of all lands held free of rent, or at an inadequate rent under invalid tenures; Commissioners have likewise from time to time been appointed under the orders of Government to maintain and enforce the public rights in different districts, in which extensive tracts of country unowned and unoccupied at the time of the perpetual settlement, are now liable to assessment, or, being still waste, belong to the State. It was, at the same time, provided in the Regulations above adverted to, that, in all cases in which the Revenue Officers might declare the lands of any individual liable to assessment, the party might contest the decision by suit in one of the ordinary Courts of Justice, such provision having been made with the intention that the decisions of the Collectors and the Boards should be held and considered to be judicial awards, and that the suits preferred to the ordinary Courts, being of the nature of appeals, should be speedily disposed of. It has however, appeared that partly from the number of the cases in question, partly from the practice of the Courts in treating the appeals made to them as original suits, and partly from other causes, little or no progress has been made towards the settlement of the matter, and heavy arrears of such cases have accumulated in several of the Courts and Boards of Revenue: that the existing laws have not been adequate to secure for the Revenue authorities the information required, and that consequently, while, on the one hand, a large amount of Revenue continues to be usurped without any just pretence, and the improvement of the country is hindered by frivolous and litigious claims, on the other hand, the owners of valid tenures are disquieted and disturbed. To remedy the aforesaid evils, it appears to be expedient to appoint Special Commissioners competent to determine finally all cases of the nature above described, within such local limits as may from Preamble.

time to time be deemed necessary; to declare the intent and meaning of the existing Regulations in regard to suits preferred to the ordinary Courts relative to such cases; and to provide that all successions to the possession of land or rent, free of assessment whether by sale, gift, or inheritance, shall be regularly reported to the Revenue authorities. It has likewise appeared to be expedient and proper to make provision for the immediate settlement of the limits of the Soonderbuns, as ascertained by careful local enquiry, conducted by the Commissioner specially appointed to the duty, and the Surveyors under his authority: and also to declare the intent and meaning of certain parts of the existing Regulations in regard to which doubts have arisen.—The following rules have accordingly been enacted to be in force from the date of their promulgation throughout the provinces immediately subordinate to the Presidency of Fort William.—*Reg.* III. 1828, *Preamble.*

Special Commissioners to be appointed for the purpose of determining cases investigated by Collectors, under the Rules of Regulation II. 1819, and other similar provisions.

It shall be competent to the Governor General in Council, by an Order in Council, to appoint one or more Special Commissioners as may be judged expedient, for the final determination of all cases which have been or may be investigated by Collectors, Deputy Collectors, or other officers exercising in that behalf the powers of Collectors, under the rules of Section 5, and the fifteen subsequent Sections of Regulation II. 1819, and of Section 5, Regulation IX. 1825, subject to the provisions hereinafter enacted: and the Commissioner or Commissioners so appointed, shall similarly determine all suits which may be brought to contest the demand of the Revenue Officers on the plea that the annual rent or assessment upon which the demand is founded exceeds what the party is bound to pay, and which may consequently involve the question of a permanent increase or reduction of the public Revenue.—*Reg.* III. 1828, *Sect.* 2, *Cl.* 1.

The jurisdiction of the Special Commissioner or Commissioners, to extend to such districts or portions of districts as Government may direct.

Government competent to fix and appoint the functions of each Commissioner, and to assign such local jurisdiction as may appear proper.

The jurisdiction of the Special Commissioner or Commissioners appointed as above shall extend to such districts, or portions of districts, and for such periods, as the Governor General in Council may direct: and it shall be competent to the Governor General in Council to fix and appoint the functions to be discharged by each Commissioner, and to assign to him such local jurisdiction as may from time to time appear proper.—*Reg.* III. 1828, *Sect.* 2, *Cl.* 2.

Whenever any Commissioner or Commissioners shall be vested by the orders of the Governor General in Council with jurisdiction in any district or other division, notice thereof shall be published by proclamation at the Cutcherries of the Judge and Collector of such district, and shall likewise be communicated, through the Court of Sudder Dewanny Adawlut, to the Provincial and Zillah Courts concerned.—*Reg.* III. 1828, *Sect.* 2, *Cl.* 3.

Notice of jurisdiction vested in Commissioner or Commissioners, how to be published.

Whenever any of the said Courts shall be apprized in the manner above specified of the appointment of a Commissioner or Commissioners to exercise the powers specified in this Regulation within any Zillah or other local division, the powers heretofore vested in and exercised by the said Courts in regard to all cases belonging to such local division of the nature declared cognizable by the Special Commissioners shall be suspended, and the said Courts shall immediately stay all proceedings in such cases, until they shall be apprized that the local jurisdiction of the Commissioner or Commissioners has ceased, and further, the said Courts shall forthwith transmit to the Commissioner the records of all cases of the above nature, which may be depending before them: Provided also that no appeal shall lie to any of the established Courts of Judicature from any decision which has been, or shall be passed, by the Board of Revenue, or a Collector, in regard to the Revenue of any lands lying within such local division, previously to, or pending the appointment of a Special Commissioner. —*Reg.* III. 1828, *Sect.* 2, *Cl.* 4.

Courts to suspend the exercise of the powers vested in them, in regard to all cases, cognizable by the Commissioners, on being apprized of their appointment.

And to stay all proceedings in such cases, until apprized that the local jurisdiction of the Commissioner has ceased.

Records of such cases, depending before the said Courts, to be forthwith transmitted to the Commissioner.

No appeal to lie to Courts from decisions of the Board of Revenue or Collectors, in regard to the Revenue of lands within such local division, passed before or pending the appointment of a Commissioner.

In all cases, which have been decided by the Boards of Revenue before the Jurisdiction of a Commissioner may have been declared to extend to the district in which they have arisen, and in which the parties would, but for the extension of such jurisdiction, have been entitled to appeal to the ordinary Courts of Justice, under the rules contained in Sections 22 and 24, of Regulation II. 1819, and Section 5, Regulation IX. 1825, an appeal shall lie to such Special Commissioner, and the cases shall be heard and determined in the same manner as appeals preferred to that authority from the decisions of

In cases decided by the Board of Revenue, in which parties would have been entitled to appeal to the Courts, an appeal to lie to the Commissioner, and the cases to be heard and determined in the same manner as appeals from Collectors under this Regulation.

Collectors under this Regulation.—*Reg.* III. 1828, *Sect.* 2, *Cl.* 5.

Whenever the act or judgment appealed against, may have been done or passed by a Special Commissioner, appointed under Regulation III. 1828, such case shall not be cognizable by the said Commissioner.

In modification of the rules contained in Clauses fourth and fifth, Section 2, Regulation III. 1828, it is hereby enacted, that whenever the act or judgment appealed against, may have been done or passed by a Special Commissioner, appointed under the Regulation above cited, such case shall not be cognizable by the said Commissioner whether he may have been at the time when such act or judgment was done or passed by him, exercising the powers of a Collector or Member of a Board of Revenue, a Judge of a Zillah or City Court, or of a Provincial Court.—*Reg.* IV. 1829, *Sect.* 2, *Cl.* 1.

Whenever a Petition of Appeal in a case of the above nature may be preferred to a Special Commissioner, a Report of the circumstances of the case to be made to Government for Orders.

Government competent to direct some other Tribunal to receive and decide the appeal.

Whenever a petition of appeal in a case of the above nature may be preferred to a Special Commissioner, he is hereby directed and required to report the circumstances of the case for the Orders of Government, and it shall be competent to the Governor General in Council to direct some other Special Commissioner, or such other Tribunal as he may deem proper, to receive and decide the appeal agreeably to the Rules and Regulations applicable to the case.—*Reg.* IV. 1829, *Sect.* 2, *Cl.* 2.

Notice of appointment of Commissioner to be communicated to Boards of Revenue or other Board exercising Revenue controul, who will, on the receipt of such communication, suspend the exercise of the powers vested in them under Regulation II. 1819, and IX. 1825, with the exception stated.

And stay all proceedings in such cases depending before them and transmit the Records to the Commissioners.

Notice of the appointment of a Commissioner to exercise the powers specified in this Regulation in any district or other local division, shall likewise be communicated to the Boards of Revenue, or other Board exercising controul over the Revenue Officers of such district or division, and on the receipt of such communication, the powers vested in the said Boards, under the provisions of Regulation II. 1819, and Regulation IX. 1825, (with exception to the powers specified in Section 4, of the last mentioned Regulation,) shall be suspended, within the said district or division; and the said Board shall immediately stay all proceedings in cases thereunto belonging, which may be depending before them, under the provisions of the above Regulations, as well as in all other cases, relating to the said district or division of the nature described in the Preamble to this Regulation, and shall forthwith transmit to the Commissioner the records of all such cases.—*Reg.* III. 1828, *Sect.* 2, *Cl.* 6.

In suits transferred from the Courts or Boards

When any suit may be transferred by a Court of Justice or a Board of Revenue to a Special Commissioner under the pro-

visions of this Regulation, the Commissioner or Commissioners by whom such suit shall be decided shall determine the amount of remuneration to be assigned to the Vakeels who may have been employed by the parties in conducting such suit before the Court or Board from which it may be transferred, and generally how any costs previously incurred shall be borne: all sums which may have been deposited in such Court or Board on account of Vakeel's fees, shall be kept in deposit until the case is decided, when the amount awarded to the Vakeels by the Commissioners shall be paid to them.—*Reg.* III. 1828, *Sect.* 2, *Cl.* 7.

under this Regulation, all sums which may have been deposited as Vakeel's fees, shall remain in deposit till the case is decided, and the Vakeel's fees, as well as all other costs, shall then be paid as may be awarded in the decree of the Commissioner.

Whenever the jurisdiction of a Commissioner shall be declared by the orders of Government, to extend to any district or other local division, it shall be competent to the Governor General in Council to invest such Commissioner with any, or all of the powers vested by the Regulations in force in the Boards of Revenue.—*Reg.* III. 1828, *Sect.* 3.

Whenever the jurisdiction of a Commissioner shall be declared to extend to any District or other local Division, it shall be competent to Government to invest such Commissioner with any or all the powers of the Board of Revenue.

In all cases decided by Special Commissioner or Commissioners, whether on appeal by individuals from decision of the Collector, or on reference from the Board of Revenue under the above rule, or in cases transferred from any of the ordinary Courts of Judicature, the decision passed by the Special Commissioner or Commissioners, who by warrant from the Governor General in Council and the provisions of this Regulation may be competent to pass the same, shall be final, save and except in cases which, if decided by the Court of Sudder Dewanny Adawlut, would be appealable to his Majesty the King in Council; in such cases, a similar appeal will lie from the decision of the Special Commissioner or Commissioners under the same rules and restrictions as are applicable to appeals from the decisions of the aforesaid Court, provided however that such decision shall be immediately executed and enforced, notwithstanding the institution of the appeal: Provided also that it shall be competent to any Commissioner to review any judgment passed by him on sufficient cause being shewn why a new trial should be granted—the rules in the existing Regulations regarding a review of judgment being held applicable to such cases.—*Reg.* III. 1828, *Sect.* 4, *Cl.* 5.

Decisions of Special Commissioner or Commissioners, under this Regulation, shall be final.

Excepting cases which, if decided by the Sudder Dewanny Adawlut, would be appealable to His Majesty the King in Council.

In such cases an appeal will lie from the decision of the Special Commissioner or Commissioners, under the rules applicable to appeals from decisions of the Sudder Dewanny Adawlut.

The decision of the Special Commissioner to be executed and enforced, notwithstanding the institution of the appeal.

Commissioners to be competent to review any judgment passed by them, on sufficient cause shewn for a new trial.

The judgment of a single Commissioner concurring with the decision of the Board or other, inferior tribunal, to be final, subject to the provisions of the foregoing clause.

In all cases, in which the judgment of a single Special Commissioner shall coincide with the decision passed by a Collector or by a Board of Revenue, or by a Court of Justice, in cases which have been decided by an inferior Court, and after having been appealed to a higher, have been transferred under the provisions of this Regulation to a Special Commissioner, the decision of such single Commissioner shall be final, subject to the provisions of the foregoing Clause. But, if on hearing any case of the nature above specified, a single Commissioner shall be of opinion that the last award made in such case ought to be reversed, or altered, he shall record his opinion to that effect, and the case shall then be laid before another Special Commissioner appointed under this Regulation, and should he disagree in opinion as to the decision of the case, to a third Commissioner, so that the final award may be made by the concurrent voices of at least two Special Commissioners. Provided that it shall be competent to the Governor General in Council on the occasion of appointing a Special Commissioner to exercise the powers specified in this Regulation within certain local limits, to determine at the same time to what other Special Commissioner a reference shall be made by him in cases of difference of opinion.—*Reg.* III. 1828, *Sect.* 4, *Cl.* 6.

Course to be followed in the event of disagreement of opinion.

Commissioners may prescribe rules for the guidance of the Collectors, and may refer cases back to those officers for further trial.

The Special Commissioners shall likewise be competent to issue such instructions to the Collectors of the districts over which their jurisdiction extends, in regard to their proceedings relative to cases investigated under the rules of Regulation II. 1819, and Regulation IX. 1825, as may appear requisite for their guidance and conducive to the ends of justice, and, when it may appear necessary or proper, to refer cases back to those officers for further trial.—*Reg.* III. 1828, *Sect* 6, *Cl.* 2.

Courts and Collectors to give their aid to the Commissioners.

It shall be the duty of the Courts and of the Revenue Officers to afford the Commissioners every aid and information that they may require—to serve all processes issued and required to be served by the Commissioners in like manner as if they were issued by themselves, to prepare and transmit to the Commissioners such lists of cases decided, or pending before them as they may see occasion to call for, and to furnish all papers and documents which the Commissioners may desire to examine.—*Reg.* III. 1828, *Sect.* 7, *Cl.* 1.

Commissioners may require Zillah Courts and Collectors to examine witnesses and furnish information.

It shall likewise be competent to the Commissioners to require the Zillah Courts or the Collectors to examine witnesses, either on written interrogatories or otherwise, in regard to any points, the investigation of which it may appear necessary to conduct in that manner, and generally to enquire and report on particular points upon which further information is desirable, in the same manner as the said Court are required to report in pursuance of precepts issued to them by the Provincial Courts and Court of Sudder Dewanny Adawlut.—*Reg.* III. 1828, *Sect.* 7, *Cl.* 2.

In reply to your letter of the 13th instant, I am directed by the Right Honourable the Governor of Bengal to request that, in order to obviate the serious embarrassment to the public service, in the Revenue Department, which might result from a contrary course of proceeding, you will issue all precepts to Collectors or Deputy Collectors (not being specially appointed for the enforcement of the Resumption Laws) directing Mofussil investigations and returns thereon, through the Revenue Commissioner of the Division to which the officer addressed belongs. It will be the duty of the Commissioners to give prompt effect to your requisitions; and those officers will be instructed, as you suggest, to inform you of the period which they may fix for the deputation of Collectors or Deputy Collectors on the prescribed duty, and of any impediments which may afterwards occur to prevent their executing it at the time originally proposed.

2. You are requested to record this letter upon the proceedings of the Commission generally, in order that it may guide, hereafter, the proceedings of the Commissioner of the Moorshedabad Division, as well as your own.—*Letter from the Secretary to the Government of Bengal, to the Officiating Special Commissioner, Calcutta Division, dated the 20th December,* 1836. *Cir. Ord. S. B. R. No.* 4, *Jan.* 9, 1837.

Processes of the Commissioner how to be enforced.

All processes issued by a Commissioner shall be enforced in the same manner, and under the same penalties for disobedience or resistance, as processes of the ordinary Courts of Justice, and all the powers possessed by those Courts, in regard to contempts, the summoning and examination of witnesses, and the administration of Oaths, shall be vested in the Commissioners, whose decision shall, in such matters, be final.—*Reg.* III. 1828, *Sect.* 6, *Cl.* 3.

Decisions of the Commissioners how to be executed.

The Special Commissioners shall be competent to require the Zillah Courts to carry into execution, when necessary, the decisions which they may pass, and the Zillah Courts shall give effect to such decisions in the same manner as they are required to execute the decrees passed by the Provincial Courts, or the Court of Sudder Dewanny Adawlut.—*Reg.* III. 1828, *Sect.* 6, *Cl.* 4.

Native Officers attached to the Commissioners subject to what rules.

The several rules and provisions contained in the existing Regulations relative to Native Officers belonging to the Zillah Courts, will be applicable to the Native Officers employed by the Special Commissioners, except in cases in which the Commissioners may, with the sanction of Government, otherwise determine.—*Reg.* III. 1828, *Sect.* 6, *Cl.* 5.

Persons guilty of perjury or subornation of perjury, to be punishable under the Regulations.

Any person knowingly giving a false deposition, whether on Oath or Hullufnamah, relative to any suit or matter depending before a Commissioner, and upon a point material to the issue thereof, shall be held and considered guilty of perjury, and shall, on conviction, be liable to the penalties prescribed by the Regulations for that offence. And any person causing or procuring another person to commit the offence of perjury as above described, shall be guilty of subornation of perjury, and shall be punishable, on conviction, under the provisions of the said Regulations.—*Reg.* III. 1828, *Sect.* 6, *Cl.* 6.

And may be committed by order of the Commissioners for trial before the Court of Circuit.

The Commissioners shall be competent to commit persons guilty of the above offences for trial before the Court of Circuit, and any Magistrate receiving from a Commissioner a Roobukaree, directing the commitment of such offenders, shall give effect to the same in like manner as if the commitment were made by himself.—*Reg.* III. 1828, *Sect.* 6, *Cl.* 7.

Commissioners to furnish periodical Statements and reports.

The Special Commissioners shall furnish to Government periodically such statements and reports, as the Governor General in Council may prescribe.—*Reg.* III. 1828, *Sect.* 8.

Oath to be taken by Special Commissioners.

The Special Commissioners appointed under this Regulation shall, before entering on the performance of their functions, take and subscribe a solemn Oath, according to the following form, and such Oath is to be administered by such person or persons as the Governor General in Council may direct.—*Reg.* III. 1828, *Sect.* 9.

Form of Oath.

I, A. B. appointed a Special Commissioner, under the rules of Regulation III. A. D. 1828, solemnly swear, that I

will investigate and determine in equity and good conscience, to the best of my ability, knowledge and judgment, without fear, favor, promise or hope of reward, all matters which by the said Regulation or any other Regulation in force, I may be required to investigate and determine: that I will not receive directly or indirectly any present or Nuzzur in money or effects of any kind from any party whomsoever on account of any matter to be received, investigated or determined by me, or which may be depending or have been investigated or determined under the abovementioned Regulation, that I will not knowingly permit any person or persons under my authority to receive directly or indirectly any present or Nuzzur, in money or effects of any kind from any party or person whatsoever, on account of any matter as aforesaid,—and that I will not derive directly or indirectly any emoluments or advantages from my Office, excepting such as the orders of Government do, or may authorize me to receive.

—*Reg.* III. 1828, *Sect.* 9. So help me God.

I am directed to inform you that the Right Honourable the Governor of Bengal has been pleased to direct that the 58th Rule of Practice, empowering Local Commissioners to authorize disbursements ordered by a regular decree of a Court of Justice, be extended to disbursements directed by decrees of the Special Commissioners appointed under Regulation III. of 1828.—*Letter to the Commissioners of Revenue. Cir. Ord. S. B. R. No.* 64, *July* 25, 1837.

Local Commissioners may authorize disbursements under decrees of Special Commissioners, Regulation III. 1828.

Extract from a Letter from the late Superintendent and Remembrancer of Legal Affairs to Government, dated the 9th August, 1828.

Par. 7. I further beg leave to submit the expediency of remunerating the Agents employed by Government, by a per centage on all the cases pleaded by them, the final decision of which produces a clear addition to the revenue of Government; the per centage to be calculated, in cases of lands hitherto held free of all rent, as well as of churs, on the full amount of the annual assessment at which such lands or churs may be settled, in execution of the decrees of the Commissioners; and in cases of lands heretofore held at an inadequate jumma, the per centage should be calculated at the difference between the former

jumma and that which may be finally assessed on them; or, in other words, on the net increase of revenue obtained.

8. The following is the scale on which it appears to me that remuneration may with advantage be granted to the Government Agents.

If the net annual increase of revenue to Government does not exceed Rs. 500; 20 per cent.

If above 500, and not exceeding Rs. 1,000; on 500 Rs. as above, and on the remainder 15 per cent.

If above 1,000 Rs. and not exceeding Rs. 2,000; on 1,000 Rs. as above, and on the remainder 12 per cent.

If above 2,000 Rs. and not exceeding Rs. 5,000; on 2,000 Rs. as above, and on the remainder 10 per cent.

If above 5,000 Rs. and not exceeding Rs. 10,000; on 5,000 Rs. as above, and on the remainder 5 per cent.

If above 10,000 Rs. and not exceeding Rs. 20,000; on 10,000 Rs. as above, and on the remainder 1½ per cent.

If above 20,000 Rs. the remuneration to be Rs. 1,000; which is to be considered the highest reward to which an Agent shall be entitled, unless, from the special circumstances of any particular case, the Governor General in Council shall consider it proper to grant a larger sum.

9. The salary and scale of rewards which I have proposed may perhaps, at first sight, appear too high: I beg, however, respectfully to observe, that it is an object of no slight importance in these appointments to ensure the services of well qualified men, to reward them on a scale, which will leave them but little temptation to intrigue with the parties whose tenures are under inquiry, and, by making the reward dependant on success, to raise the price at which an unfaithful Agent would be disposed to risk the consequence of taking a bribe, to an amount which but few of the litigants would be willing to pay.

Extract from a Letter from the Secretary to Government, Territorial Department, to Superintendent and Remembrancer of Legal Affairs, dated the 21st August, 1828.

3. You are authorized to appoint an Agent to attend on behalf of Government at the Cutcherries of the Chittagong and Patna Divisions, on a salary of 50 Rupees per mensem each; and the Governor General in Council likewise accedes to your proposal, that the said officers, as well as the person similarly employed by you at the presidency, shall be rewarded for suc-

cessful exertions in the mode and on the scale suggested in the 8th and 9th paragraphs of your report.—*Cir. Ord. S. B. R. No.* 10, *Feb.* 5, 1830.

Basis of remuneration to Government Pleaders in Special Commissioners' Courts, to be ten Annas per beegah, in cultivation.

I am directed to inform you that the Right Honourable the Governor of Bengal has been pleased to determine, that ten annas per beegah of land *in cultivation*, be fixed as the basis, on which the remuneration of the Government Pleaders in the Special Commissioners' Courts shall in future be calculated, in conformity with the rule prescribed by Government Orders, dated the 21st August, 1828.

2. You will be pleased to instruct the Collectors in your Division to pay immediate attention to the requisitions of the Special Commissioners for payment of fees granted under these orders.

3. The Board further desire, that any arrears which may be still due to those Pleaders, notwithstanding their Circular Orders issued on the 28th March and 2nd of May last, directing their immediate payment, be at once calculated at the above rate, and the amount remitted to the Special Commissioners for delivery to the Pleaders to whom it is due.—*To the Commissioners of Revenue. Cir. Ord. S. B. R. No.* 72, *August* 22, 1837.

Rule regarding mode of conducting appeal from decisions of Resumption Officers against Assessment. Form of Perwannah to the Government Agent at the Court of the Special Commissioner.

It has been brought to the notice of the Sudder Board of Revenue, that, in one of the Divisions under their control, a practice has hitherto obtained, of merely intimating to the Government Agent, that an appeal of the nature noted in the margin* is to be preferred, and that no further attention is paid to a revision of the pleading when prepared by the Government Agent, that document being presented to the Special Commissioner without being previously submitted for the approval of the Local Commissioner.

2. As such a practice is not only highly objectionable on other grounds, but also gives an obvious facility to collusions, and tends to foster neglect on the part of the Government Agent; and as a similar practice may possibly prevail in other Divisions, the Board have considered it necessary to issue a general order on the subject, and to request your attention, in future, to the following instructions.

* Appeals to the Special Commissioner, under Clause 4, Sect. 4, Reg. III of 1828, from the decision of Resumption Officers against Assessment.

First. Whenever you deem it your duty to appeal against the decision of any resumption officer against assessment, you will issue a perwannah to the Government Agent in the accompanying form, setting forth, clearly and distinctly, the several grounds upon which you direct that he should rest his petition of appeal.

Secondly. You will be careful to notice all cases in which the Government Agent may not transmit the proposed pleading, within the period specified by you in the perwannah.

Thirdly. Having received the pleading from him, you will attentively revise and correct it; and after having recorded your approval upon it, or where corrections are necessary, after having prepared an amended pleading, you will forward it to that officer for the purpose of being filed in the Court of the Special Commissioner.—*To the Commissioners of Revenue. Cir. Ord. S. B. R. No. 55, November* 16, 1835.

SECTION X.

Rules of Practice in the Court of the Special Commissioner.

Forms and nature of the proceedings of the Commissioners how to be regulated.

The Special Commissioners appointed under this Regulation, shall be guided by such rules as may be prescribed by the Governor General in Council in regard to the forms of proceeding, the nature and number of the pleadings, the mode in which they are to be conducted, the paper, (stampt or unstampt,) to be used, the fees to be levied, and generally, the rules of practice to be followed.—*Reg.* III. 1828, *Sect.* 6, *Cl.* 1.

Cases transferred to Commissioners, and received in Appeal by them, to be numbered and filed in three separate Registers, according to a given form.

The several cases which may be received for trial by each Commissioner, whether transferred by the Courts of Justice, or Boards of Revenue, or received on Appeal by parties, shall be regularly numbered and entered on separate File-Books, according to the following classification, viz.

One file for cases of Lakheraj Lands or Tenures claimed to be held free of all rent.

One file for cases of claims to hold land at Mocurruree, or fixed Jumma, or to resist the assessment of land on the plea that it is included in settled estates, such as Halabad, Noabad, Towfeer, and Puteetabadee lands.

One file for new Churs and Jungle lands claimed as the absolute property, and at the disposal of Government.

Each file to be kept according to the form A annexed.—*Reg.* III. 1828, *Rules of Practice, Appendix, Sect.* 1.

Each Commissioner is to entertain a Mohafez Dufter, who is to have special charge of the records of cases to be heard and determined, for the safe custody of which that officer shall be held responsible, and all officers, who may be employed by the Commissioners in the execution of the duty confided to them, shall be considered as exclusively under their control.—*Reg.* III. 1828, *Rules of Practice, Appendix, Sect.* 2.

Each Commissioner to entertain a Mohafez Dufter, to be held responsible for safe custody of Records.

SECTION XI.

Rules for Admission of Appeals.

Whenever the record of any cause may be transferred by a Court of Justice to a Special Commissioner, under the rule contained in the Fourth Clause of Section 2, Regulation III. 1828, the Commissioner shall, in a Persian Roobukaree, acknowledge the receipt of the record, and request the Court to intimate the transfer to all parties connected with the suit, who may have appeared before it. The Commissioner shall further issue a notice according to the form in use in the Courts of Justice, to be served through the Zillah or City Court within the jurisdiction of which the lands may be situated, requiring their attendance for the purpose of prosecuting or defending the suit as the case may be; all notices of the above description, which it may be necessary to issue to any Officer on the part of Government, shall be served as hereinafter directed.—*Reg.* III. 1828, *Rules of Practice, Appendix, Sect.* 3.

In suits transferred from Courts of Justice, notice to parties how to be issued.

In all cases which may be transferred to a Special Commissioner by a Board of Revenue, under the Provisions of the Sixth Clause of Section 2, Regulation III. 1828, the Board shall be requested to notify the transfer to the parties or their agents, who may have appeared before them, and notices, similar to those prescribed in the preceding Section, shall be issued for the attendance of the parties, to be served through the Judge of Zillah or City Court, within the jurisdiction of which the lands may be situated.—*Reg.* III. 1828, *Rules of Practice, Appendix, Sect.* 4.

In cases transferred from the Revenue Boards similar notices to issue to the parties.

Whenever any person, who may be dissatisfied with a decision passed by a Collector, shall, under the option given in the

Collectors how to proceed when Petitions of Ap-

peal are presented to them.

Second Clause of Section 4, Regulation III. 1828, present his Petition of Appeal to the Collector, by whom the decision has been passed, it shall be the duty of that officer, after having had a complete copy of the record of the case made for retention in his own office, to transmit the original record of the suit, accompanied by an accurate list of all the Papers contained in it, to the office of the Special Commissioner of the Division; in making a transcript of the record previous to transmission, the Collector is to be specially careful that all Sunnuds and other documents are accurately and faithfully copied for record in his office: and the original record is, in all practicable cases, to be transmitted within fifteen days from the date on which the Petition of Appeal may be filed.—*Reg.* III. 1828, *Rules of Practice, Appendix, Sect.* 5.

Notice of transmission of record to be given to the appellant and other parties concerned.

On the same day on which the original record of any case appealed may be transmitted from the Collector's office to that of the Special Commissioner of the Division, the Collector shall issue a notice to the appellant, apprising him thereof, and requiring him to attend the Commissioner, either in person or by an authorized agent, for the purpose of prosecuting his Appeal within six weeks from the date of the receipt of such notice: if any other person, not being an officer of Government, shall have been a party to the case, a similar notice shall be issued to such person, and the due service of such notices shall, on their being returned to the Collector, be certified by him to the Special Commissioner.—*Reg.* III. 1828, *Rules of Practice, Appendix, Sect.* 6.

Collector to apprise the Agent of Government appointed at the Commissioner's Cutcherry of the admission of the Appeal.

It shall likewise be the duty of the Collector, on the transmission of the record of any case appealed as above specified, to give notice of the admission of such appeal by Perwannah, addressed to the officer, who may be appointed as hereinafter provided agent on the part of Government at the Cutcherry of the Special Commissioner.—*Reg.* III. 1828, *Rules of Practice, Appendix, Sect.* 7.

Petitions of Appeal preferred to Commissioner to be accompanied by authenticated copy of decision appealed from.

Every Petition of Appeal from the decision of a Collector, preferred direct to a Special Commissioner under the rule quoted in Section 5, or from the decisions of a Board of Revenue, under the provisions of the Fifth Clause of Section 2, Regulation III. 1828, shall invariably be accompanied by a duly authenticated copy of the decree appealed from; and on the admission of an appeal so preferred, the Special Commis-

sioner shall, when the decision appealed from may have been passed by a Collector, issue a precept to that Officer requiring him, within a specified time, to transmit the original record of the cause to the office of the Special Commissioner, a copy of the record being retained by the Collector, as provided in the Fifth Section of these Rules; in cases when the appeal admitted as above shall be from a decision passed by a Board of Revenue, the Special Commissioner shall, by a Persian Roobakaree, require such Board to transmit to his office the original record of the case, (a copy being similarly retained) within a specified period.—*Reg.* III. 1828, *Rules of Practice, Appendix, Sect.* 8.

Commissioner how to proceed when appeal is admitted from decisions of Collectors.

And how to proceed, if the appeal be from a decision of a Revenue Board.

When an appeal may be admitted by a Special Commissioner under the Rules contained in the two preceding Sections, if there shall appear, on a perusal of the decree appealed from, to be any individuals interested in the issue of the appeal besides the appellants and the Officers of Government, it shall be the duty of the Special Commissioner to direct a notice of the nature described in Section 6, of these Rules, to be served on such persons, through the Zillah or City Courts, within the jurisdiction of which they may reside, and the due service of such notice shall be certified by the Judge of such Court, in reply to the precept issued to him by the Commissioner.—*Reg.* III. 1828, *Rules of Practice, Appendix, Sect.* 9.

Notice of the admission of an appeal to be given to other parties not appellants or officers of Government.

Judges of Zillah and City Courts to certify the due service of such notice.

In cases which may be referred to the Special Commissioners by the Revenue Boards, under the Provisions of the Fourth Clause of Section 4, Regulation III. 1828, the notice therein directed to be issued for the attendance of the respondents, as well as any notice which it may appear proper to the Commissioners to issue for the attendance of any other party, not being an Officer of Government, shall issue through, and be served by, the Judge of the Zillah or City Court of the district in which the respondent or such party may respectively reside.—*Reg.* III. 1828, *Rules of Practice, Appendix, Sect.* 10.

Notice to respondents and other parties in cases referred to Special Commissioners under Clause 4, Section IV. Regulation III. 1828, how to be served.

With reference to the provisions of Clause Third, Section 4, and Clause Second, Section 6, Regulation III. 1828, it is provided, that, whenever a Petition of Appeal shall be preferred to a Collector against a decision passed by him, declaring land liable to assessment, or when a Collector may have reason to believe that it is the intention of the party against whom such decision may have been passed, to appeal therefrom with-

In certain cases, Collectors are to stay execution of Decrees in cases appealed.

in the period limited by the above Regulation, he shall not proceed to carry the decree into execution, until after the expiration of that period, unless he shall be sooner apprized that an application on the part of the appellant to stay execution of the decree has been rejected by the Special Commissioner, in which case, or otherwise after the expiration of the period limited for appealing, he may proceed to execute the decree, unless prohibited from so doing by order of the Special Commissioner.—*Reg.* III. 1828, *Rules of Practice, Appendix, Sect.* 11.

When Petition of Appeal is filed before the Special Commissioner, he may order execution to be stayed.

Provided also, that in cases in which the Petition of Appeal may be filed before a Special Commissioner, if, on a perusal of the decree, he shall see reason to direct execution thereof to be suspended, an order to that effect shall be issued to the Collector, along with the requisition for the original record of the cause directed to be issued in the Eighth Section of these Rules.—*Reg.* III. 1828, *Rules of Practice, Appendix, Sect.* 12.

SECTION XII.

Rules regarding Pleadings.

Petition of Appeal to be written on stampt paper value One Rupee.

Every Petition of Appeal from the decision of a Board of Revenue, or of a Collector, which may be preferred to a Special Commissioner, under the Provisions of Regulation III. 1828, shall be written on stampt paper of the value of One Rupee. -*Reg.* III. 1828, *Rules of Practice, Appendix, Sect.* 13.

Petition may contain grounds of appeal, or they may be advanced in a separate pleading, but if the latter, such pleading to be written on stampt paper value One Rupee.

It shall be at the option of the appellant to enter the grounds of his appeal in detail in the Petition for the admission of his appeal, or to reserve his arguments to be brought forward in a separate pleading, but in the event of his adopting the latter course, such pleading shall be written on stampt paper value One Rupee.—*Reg.* III. 1828, *Rules of Practice, Appendix, Sect.* 14.

Reply of Government to be written on the same paper, and always to be put in.

In appeals, wherein an Officer of Government is the party respondent, the reply to be filed to the grounds of appeal is to be written on stampt paper value One Rupee, and a reply, either in express refutation of the pleas of the appellant, or generally resting the defence on the grounds recited in the decree appealed from, shall be required in every case.—*Reg.* III. 1828, *Rules of Practice, Appendix, Sect.* 15.

In cases referred by the Revenue Boards for revision to the Special Commissioners, under the Rule in Clause Fourth, Section 4, Regulation III. 1828, the Board referring the case shall be required, in reply to the reference, to direct the Superintendent and Remembrancer of Legal Affairs, or some other public Officer, to file a pleading containing the grounds on which the Board are dissatisfied with the Collector's decree, and such pleading shall be written on stampt paper value One Rupee.—*Reg.* III. 1828, *Rules of Practice, Appendix, Sect.* 16.

In cases referred for revision by Revenue Board, under Clause 4, Section IV. Regulation III. 1828, Boards to direct a public officer to file a pleading containing grounds of dissatisfaction: such pleading to be written on stampt paper value One Rupee.

The reply of the party opposed to Government, in cases of the above description, shall likewise be written on stampt paper value One Rupee.—*Reg.* III. 1828, *Rules of Practice, Appendix, Sect.* 17.

Reply of respondent to be written on similar paper.

It having appeared to the Board that great delay would be avoided, by entrusting the superintendance of pleadings in suits, decided by the Revenue Authorities in favor of Government, and depending in appeal before the Special Commissioner acting under Regulation III. 1828, to the Collectors, without the necessity of a reference to superior authority, a proposition to that effect was submitted to the Governor General in Council, which has been approved: you are accordingly requested to issue the necessary instructions to the several officers subordinate to you, informing them, that with exception to cases provided for by Clause 4, Section 4, Regulation III. 1828, the pleadings will be prepared and filed under their own immediate responsibility, they being at liberty to apply to you, and you to the Sudder Board, for instructions, if under any circumstances such instructions should appear necessary or desirable.—*Letter to the Commissioners of Revenue. Cir. Ord. S. B. R. No.* 62, *Sept.* 10, 1830.

Pleadings in cases appealed to Special Commissioners under Regulation III. 1828, to be prepared by Collectors.

No miscellaneous petition or pleading of any kind, beyond the Wujoohat of the appellant, and the reply of the respondent, shall be admitted, unless on a verbal representation by the parties or their agents, before the Commissioner, such additional pleading or miscellaneous petition shall appear necessary, but when admitted to be so by the Commissioner, and allowed to be filed, it shall be written on stampt paper value One Rupee.—*Reg.* III. 1828, *Rules of Practice, Appendix, Sect.* 18.

No further pleadings to be admitted, except under special circumstances.

The foregoing Rule is not, however, to be construed to pre-

Above Rule not

to apply to petitions of suspending execution of decrees, pending appeal.

vent the admission, by the Special Commissioners, of Petitions presented solely for the purpose of staying execution of decrees, which Petitions may be received and acted on at any time, pending the decision of an appeal.—*Reg.* III. 1828, *Rules of Practice, Appendix, Sect.* 19.

Petitions for review, on what paper to be written.

With reference to the provisions for a review of judgment contained in the Fifth Clause of Section 4, Regulation III. 1828, it is provided that all Petitions for review of judgment, which may be presented to the Special Commissioners, shall, if presented within two calendar months from the date of the decision of which review is prayed, be written on stampt paper value One Rupee: but if presented after the expiration of the above period, such Petition shall be written on the stampt paper prescribed in Section 13, Regulation I. 1814, calculated at the computed annual produce of the land in dispute.—*Reg.* III. 1828, *Rules of Practice, Appendix, Sect.* 20.

SECTION XIII.

Rules regarding default.

An appellant defaulting for six weeks, to be called on by a notice to appear.

If any appellant shall not, within the period of six weeks from the date of instituting his appeal, if preferred direct to a Commissioner, or, if filed at the Collector's office, from the date on which he may receive notice that the record of the case has been transmitted to the Commissioner, either attend in person, or appoint an agent as hereinafter provided, and prosecute his appeal, a further notice shall be issued by the Commissioner, through the Zillah or City Court, requiring such appellant to attend and prosecute his appeal within fifteen days from the date of the receipt of such notice. If the Peon charged with the service of the notice cannot serve it upon the appellant personally, he shall proclaim the same at the dwelling of the appellant in the presence of witnesses, and such proclamation shall be deemed equivalent to personal service; and if the appellant shall afterwards omit or refuse to attend the Commissioner within the prescribed period, his appeal shall be dismissed with costs.—*Reg.* III. 1828, *Rules of Practice, Appendix, Sect.* 21.

What to be deemed due service of such notice.

Prescribing one form for returns of suits before Special Commissioners.—Interference of Revenue Authorities with Government Pleaders at their courts objectionable.

Herewith you will receive extract copies of correspondence, as noted in the margin,* on the subject of interference, by Revenue Officers, with the proceedings of the Special Commissioners.

2. You are requested to communicate them to your subordinates, with instructions to them, to proceed always in accordance with the views of the Right Honourable the Governor of Bengal as expressed in Mr. Mangles's letter.

3. The form of quarterly report alluded to by Mr. Elliott is appended. It will be furnished to the Commissioners, and is to supersede all forms at present demanded from the Government Vakeel.

4. The Government Vakeel at the Court of the Special Commissioner has received separate instructions to this effect. —*To the Commissioners of Revenue. Cir. Ord. S. B. R. No.* 15, *February* 20, 1837.

Extract of a letter from the Special Commissioner of Patna, to the Secretary to the Government of Bengal, under date the 14*th July*, 1836.

Para. 8. I avail myself of the present opportunity to submit, that, during the last few months, the Orders conveyed by the Revenue Authorities of the Zillahs subject to the Government of Bengal, to the Government Pleader, for returns of various descriptions, in tabular forms, have been so numerous and incessant, as to leave him no leisure to attend to the peculiar and vastly more important duties of his Office; the preparing and transcribing of pleadings, for transmission for the approbation of the Collectors, previously to their being presented to this Court. This is evidently a duty of no slight difficulty and importance, the efficient performance of which must be impossible, if the attention of the Government Pleader is to be incessantly distracted, by being called upon to furnish various unnecessary details, most of which ought to be more familiar to those who call upon him to furnish them; and further subsequently required to reconcile discrepancies, for which he cannot be held responsible, and which have, in all probability, arisen from a want of method, or the absence of proper books of abstracts and references, in the Offices of the Collectors and Commissioners of Revenue.

* Special Commissioner of Patna, to Government, paras. 8, 9, 11, 12.
Secretary to Government to Board, paras. 3, 4, 5.

9. With the view to afford to the Right Honourable the Governor, an opportunity of judging of the correctness, or otherwise, of the above remarks, I have translated, and have the honour to forward, English copies of eleven tabular forms lately received by the Government Pleader. Now; as all the cases which ultimately come before this Court in appeal are originally prepared in the offices of the Collectors; as copies of their entire proceedings are retained at the time of transmitting the appealed cases; and as it is the duty of the Revenue Officers to keep books of abstracts for ready reference, and preparing the statements to be forwarded to their immediate superiors, it is obvious that they ought to have been able to furnish the greater part of the particulars sought for, from their own offices, and that the calling for, and collecting, unnecessary details, is merely creating trouble and perplexity to the Government Pleader, and accumulating materials for the discrepancies which appear to exist in the offices of the Revenue authority; thereby causing a great loss of time to themselves, and annoyance to others, who may be called upon to reconcile them. The Government Pleader further represents, that he, at present, retains one mohurrir to assist him in the performance of his duties; but that, at least, four mohurrirs, and a proportionate expenditure of stationary, will be required, if the system, lately commenced by the Revenue Officers in the immediate vicinity, be continued, and more particularly, if it be extended to the whole of the nineteen Districts under this jurisdiction.

11. The Government is aware that the periods allowed to the party opposed to Government in prosecuting his appeal before this Court, are very short and limited, under Rule XXI. and the following, of the Rules of Practice. In fact, it was never contemplated, at the period of enactment, that the jurisdiction of the Special Commissioner of Behar would extend from Bhagulpore to Cawnpore. Consequently I have considered myself warranted in using a sound discretion in extending these periods, in cases where, from distance of place or other reasons, the party appeared to be entitled to a reasonable degree of indulgence. In fact, the adoption of any other course would lead to the dismissal *ex parte* of the greater part of the appeals instituted before this Court; a result which, I beg respectfully to submit, would tend as little to the credit of

Government as to the satisfaction of the party. The inference which I would wish to draw from the above statements and course of reasoning, is, that within certain limits, which if exceeded would justly render the Special Commissioner responsible to Government, a discretion in matters of process must rest with the judge who presides in the Court; and that it is not competent, to every Deputy Collector, to address a Perwannah, whenever he may see proper, to the Government Pleader, directing him, immediately, to bring particular cases to the notice of the Special Commissioner, as having exceeded the period of process, and to have them decided forthwith.

12. The books of Forms and Abstracts, which ought to be kept up in the offices of the Collectors or Deputy Collectors, together with the receipt of the Decrees of this Court, appear to me to be calculated to afford them every useful and necessary information, respecting the progress of the suits in appeal, and are likely, from their simplicity and uniformity, to lead to fewer discrepancies than appear, at present, to arise from the confusion of superabundant, but ill-arranged materials. Should it, however, be the wish of the Right Honourable the Governor that information of the progress of appeals, through these Courts, should be communicated by the Government Pleader to the Revenue Authorities, I beg to submit the following Form, as comprehending all useful and necessary information that may not be more correctly furnished by their own offices.

Form of Quarterly Report.

1	2	3	4	5	6	7	8	9
Number of Appeal.	Zillah.	Names of Parties.	Name of Mouzah.	Date of arrival of the Misl. in the office of Special Commissioner.	Date of order of Special Comr. for sustaining the possession of the Appt. during the appeal.	Reason of delay in deciding the appeal.	Date of decision of the Special Comr. or of reference of case to Calcutta, or as the case may be.	Date of the dispatch of the decree to the Collector and to the Revenue Com-m[illegible]er.

The above form might be regularly kept in a book by the Government Pleader, and a copy forwarded, quarterly, to each of the Deputy Collectors. The Deputy Collectors ought to be held responsible for furnishing the requisite information to the Revenue Commissioners; and those officers, to the Sudder Board.

Extract from a letter from the Secretary to the Government of Bengal, to the Secretary, Sudder Board, under date the 2nd August, 1836.

Para. 3. Further, the Governor requests the attention of the Board to the subjects discussed in Paragraphs 8 to 12 of Mr. Elliott's letter, as the numerous forms, of which he has submitted translations, evince that he has some ground for his representation, of the great labor imposed, of late, upon the Government Pleader in his Court; and as his Lordship is inclined to agree with him, that, in regard to much of the information acquired by those forms, the Revenue Authorities, by whom the requisitions were severally made, are themselves in possession of as good, and in other cases, of better sources, from which it may be drawn, than can be available to the Government Pleader.

4. The Board are, therefore, requested to consider and report, whether the form of quarterly report, given in the last paragraph of Mr. Elliott's letter, (which appears to correspond in all essential respects with the translation, No. 2, stated to have been forwarded from their office, under cover of their Secretary's Perwannah of the 11th December last,) would not suffice for all useful purposes: the principal object, it would seem, being to insure the punctual issue of the prescribed copies of decrees. The whole return might be made to their office, and extracts sent simultaneously by the Government Pleaders, to the several officers, to whom the duty of enforcing the Resumption Laws, in the districts subject to the authority of each Special Commissioner has been assigned.

5. With reference to Para. 11 of Mr. Elliott's letter, his Lordship thinks it very desireable, that there should be no interference, on the part of the officers adjudicating the claims of Government in the first instance, with the exercise, by the Special Commissioners, of the discretionary power of extending the term by Clause 2, Section 4, Regulation III. of 1828. If the former officers are dissatisfied, in any instance, with the latitude given, in practice, to the construction of that Clause, they ought to report the matter for the consideration and disposal of the Board, who are requested to issue circular instructions to that effect, for the future guidance of their subordinates.—*Cir. Ord. S. B. R. No.* 15, *Feb.* 20, 1837.

If an appellant, after having appointed an agent to plead his cause, shall neglect to prosecute the same for a period of six weeks, a requisition by the Commissioner to such agent to proceed in the case within fifteen days, shall be held equivalent to a notice to the appellant, and in the event of his not so proceeding, his appeal shall be dismissed.—*Reg.* III. 1828, *Rules of Practice, Appendix, Sect.* 22.

If appellant defaults after appointing an Agent, a requisition to such agent to be held sufficient notice.

All notices required to be served on any Officer of Government concerned in a suit before the Commissioners, shall be delivered to the agent appointed on behalf of Government at each Commissioner's Cutcherry, who shall give a receipt for the same, and transmit a copy thereof to the Officer concerned, and return the original to be filed on the record.—*Reg.* III. 1828, *Rules of Practice, Appendix, Sect.* 23.

All notices of Government officers to be delivered to the Government agent.

SECTION XIV.

Rules regarding Evidence and Fees.

Should the Special Commissioners, acting on the discretion vested in them, in common with the ordinary Courts of justice, by the third clause of Section 10, Regulation III. 1828, deem it necessary or proper to receive further evidence, oral or documentary, in any case depending before them, no stamp fees shall be levied from the parties for summoning witnesses or filing exhibits.—*Reg.* III. 1828, *Rules of Practice, Appendix, Sect.* 24.

If further evidence, oral or documentary, is received, no stamp fees shall be levied from the parties for witnesses or documents.

If, in any case, the Special Commissioners shall deem the further evidence of witnesses necessary, they shall be summoned and examined by the Judge of the Zillah or City within which they may reside, on specific points indicated by the Commissioners and recorded on their proceedings. If a party, at whose instance a witness may be summoned, will undertake himself to produce him, or to serve the subpœna on him, he shall be allowed to do so, otherwise the process shall be served by a Peon of the Zillah or City Court, under the ordinary Rules in force: the same course shall be followed whenever it may be considered necessary to examine a witness before any of the Special Commissioners.—*Reg.* III. 1828, *Rules of Practice, Appendix, Sect.* 25.

Further evidence of witnesses required, to be taken by Zillah or City Judge on specific points.

Party may produce his witness himself or undertake the service of subpœna on him.

Same course when a witness is required to be examined before a Commissioner.

SECTION XV.

Rules regarding Mooktars or Agents, and their remuneration.

Parties may plead themselves, or appoint agents.

Every party whose case may be depending under Regulation III. 1828, before a Special Commissioner, shall be at liberty, if he chooses, to attend and plead his own cause in person, or to appoint a Mooktar or Agent, specially for that purpose.—*Reg.* III. 1828, *Rules of Practice, Appendix, Sect.* 26.

Regular Power of Attorney appointing an agent to be executed, and filed on the record.

Every person who may appoint an agent, as above authorized, shall execute a regular Power of Attorney in such agent's name, and the execution of such instrument, which may be written on unstamped paper, shall be attested by some European public Officer, and it shall be filed on the record of the case.—*Reg.* III. 1828, *Rules of Practice, Appendix, Sect.* 27.

The parties not restricted in choice of agents to any particular number of individuals, but they must be of good character.

The parties in cases before the Commissioners, are not to be restricted in the appointment of agents to any particular number of individuals, provided that the persons appointed shall appear to the Commissioners to be of good character and respectability.—*Reg.* III. 1828, *Rules of Practice, Appendix, Sect.* 28.

Parties at liberty to settle with their Mooktars the amount of remuneration to be paid for their services.

The parties shall be at liberty to make such arrangements in regard to remuneration for their services with the Mooktars or Agents whom they may appoint, as may be agreed on among themselves; provided, however, that if, on the decision of the case, the parties shall disagree as to the sufficiency or otherwise of the terms agreed on, the amount shall be fixed by the Commissioner, or Commissioners, by whom the case is decided, provided also that if any Mooktar shall, (without waiting for the final adjustment of the matter as above provided for at the time of decision) decline to act further for his principal, he shall, if the latter demand it, be required to refund any sum which he may already have received for undertaking the conduct of the cause.—*Reg.* III. 1828, *Rules of Practice, Appendix, Sect.* 29.

If they disagree, the Commissioners finally deciding may fix the amount.

But if Mooktar will not await final decision, he shall refund what he may have received.

Mooktars to be subject to fine, &c. for neglect and misconduct, as pleaders of the Courts of Justice are.

Every Agent or Mooktar, who may be appointed to conduct a cause before the Special Commissioners, shall be subject to fines and other penalties for neglect, contempt of Court or other misbehaviour, to the same extent, and in the same manner, as the regular pleaders of the Courts of justice are sub-

ject by the Regulations.—*Reg.* III. 1828, *Rules of Practice, Appendix, Sect.* 30.

An agent to be appointed on behalf of Government at each Cutcherry where the Commissioners sit.

An agent shall be appointed, (if approved by Government) by the Superintendent and Remembrancer of Legal affairs, to attend on behalf of Government at each Cutcherry, where suits may be heard and determined by the Special Commissioners, and such agent shall be remunerated by a fixed salary, or in such other manner as the Governor General may be pleased to determine; the agent so appointed shall moreover be liable to all the Rules applicable to Government pleaders, as well as to the Rules prescribed for the agents who may be employed by individuals to plead before the Commissioners.—*Reg.* III. 1828, *Rules of Practice, Appendix, Sect.* 31.

Rules relative to Government pleaders to apply to him, as well as the Rules for other agents employed by the parties before the Commissioners.

SECTION XVI.

Rules regarding Decrees and Costs of Suit.

Where Commissioners interfere as to agents' remuneration, the final sum awarded to be entered in the decree as costs.

Provision also to be made for the mode in which all costs are to be borne by parties.

In giving judgment in each case, if the Special Commissioners shall see reason to interfere in regard to the compensation to be paid by the parties to the agents employed to plead their causes, the amount of remuneration finally authorized shall be inserted as costs at the foot of the decree; distinct provision shall likewise be made in every decree as to whether the party against whom it is passed is, or is not, to bear the whole or any portion of the expenses, which may have been incurred by the party opposed to him, including, of course, costs of the nature indicated in the Seventh Clause of Section 2, Regulation III. 1828, in cases to which that Clause may be applicable.—*Reg.* III. 1828, *Rules of Practice, Appendix, Sect.* 32.

Original decree and three counterparts to be prepared in English paper, and how to be disposed of.

The original decrees of the Special Commissioners, intended to be kept with the records of the cases, as well as three counterparts, to be disposed of as underneath directed, are to be transcribed on plain paper, but of European manufacture exclusively; one counterpart shall, as soon as practicable, be delivered to the party opposed to Government: one counterpart shall be transmitted to the Collector of the district in which the land is situated: and the remaining counterpart shall be forwarded to the Board of Revenue, or other authority exercising the powers of a Board of Revenue, under the controul of which such Collector may be placed. All other copies

All other copies to be made as directed by the Regulations in force.

of the decrees of the Commissioners, which parties may require for private use, or as documents to exhibit in evidence, shall be made at the expence of the parties on plain or stampt paper, under the general Regulations in force; but such copies shall only be permitted to be prepared by persons duly authorized by the Commissioners.—*Reg.* III. 1828, *Rules of Practice, Appendix, Sect.* 33.

Commissioner in transmitting counterpart of decree to Collector, to order him to execute it, and report progress thereon.

In transmitting a counterpart of the decree, as above directed, to the Collector, the Commissioner, by whom it may have been passed, shall accompany it by instructions to that Officer, to carry it into immediate execution, and to report, within a given period, the measures which he may have adopted for that purpose.—*Reg.* III. 1828, *Rules of Practice, Appendix, Sect.* 34.

SECTION XVII.

General Rules.

[GENERAL RULES.]

Unless otherwise provided, the Commissioners to be guided by Regulations in force for the trial of appeals.

In all matters not specially provided for in the foregoing Rules, or in Regulation III. 1828, the course of proceeding shall be conformable to the Rules in force for the guidance of the Courts of Justice in the trial and decision of regular appeals.—*Reg.* III. 1828, *Rules of Practice, Appendix, Sect.* 35.

Any Commissioner proposing new rules, to submit his draft before it is sent to Government to the other Commissioners for their opinions, which are to accompany the reference.

With a view to ensure uniformity in the proceedings and practice of the several Special Commissioners appointed to act under Regulation III. 1828, it is hereby provided, that whenever it may be deemed necessary by any Special Commissioner, to propose Rules of Practice, either original or in modification of the present Rules, he shall transmit a draft of such rules to each of the other Commissioners acting under the Regulation, with a request that they will record their sentiments on the expediency or otherwise of the proposed Rules, so that the draft, when transmitted for the consideration of Government by the Commissioner with whom it may originate, may be accompanied by the observations of all the Commissioners. —*Reg.* III. 1828, *Rules of Practice, Appendix, Sect.* 36.

SECTION XVIII.

Of claims for rent-free lands, preferred by one private individual against another, or against Government.

Proprietors or farmers of land, or dependant talookdars, who may deem themselves entitled to the revenue of any land of the description of that specified in Section 6, situated in their respective estates, farms, or talooks, are to institute a suit for the recovery of it in the court of Dewanny Adawlut. Any proprietor, or farmer of land, or dependant talookdar, or other person, subjecting such lands to the payment of revenue, without having previously obtained a judicial decree for that purpose, shall be liable to be sued for damages by the parties injured. Where estates or dependant talooks may be held khaus, the right of suing for the recovery of the revenue from the lands specified in Section VI. is to be considered as vested in the party to whom the collections from the estate or talook may be payable. If the estate or talook be held khaus by Government, the tehseeldar or other officer is to sue for the revenue chargeable on such lands in the room of the proprietor, but under the directions of the Collector.—*Reg.* XIX. 1793, *Sect.* 11.

How proprietors and farmers of land, &c. are to recover the revenue payable to them from the lands specified in Section 6.

To whom the right of suing for the revenue of the lands specified in Section 6, is to belong, if the estate or talook be held Khaus.

All suits preferred in a Court of Judicature by proprietors, farmers or talookdars to the revenue of any land held free of assessment, as well as all suits so preferred by individuals claiming to hold lands exempt from revenue, shall, immediately on their institution, be referred for investigation to the Collector or other officer exercising the powers of Collector: Provided also, that proprietors, farmers or talookdars, who may deem themselves entitled to the revenue of any land held free of assessment in their respective estates, talooks or farms, or individuals claiming as aforesaid to hold lands free of assessment shall be at liberty to prefer their claims in the first instance to the Collector. Provided further, that the party so prefering his claim directly to the Collector, shall, in his petition to the Collector, state the particulars of his claim, and the grounds on which it is founded, in like manner as if the suit were instituted in a Court of Judicature; and the petition shall be written on stampt paper of the value prescribed for petitions of plaint in suits instituted in those Courts.—*Reg.* II. 1819, *Sect.* 30, *Cl.* 1.

Certain suits instituted in the Civil Courts to be referred to the Collectors, and parties hereby authorized to prefer certain claims in the first instance to the Collectors.

Proviso in the latter cases.

Extract from the Court's resolution of the 19*th October*, 1832, *on the annual civil statements of Zillah Chittagong for* 1831.

Par. 4. The intent of Section 30, Regulation II. 1819, appears to have been misunderstood in this district, and its provisions misapplied. Suits referred to the Collector under this section for report appear to have been referred to *Sudder Ameens* in common with other suits, and to the *Moonsiffs* under Section 57, Regulation XXIII. 1814, which authorizes the reference of suits for landed property to the *Moonsiffs* of the district; and from the vast number of these suits, the Court are inclined to believe that they may have been referred to the Collector, though not cognizable by him under Section 30, Regulation II. 1819, as they have had occasion to observe has been the case in other districts. Under this Section, such suits only are referrible, in which the point at issue is the right to hold land free of rent, or to resume land held as rent-free under tenures stated to be illegal or invalid. Suits for possession, or for rent, of lands held exempt from the payment of revenue to Government, the validity of the tenure of which is not disputed, cannot be so referred, but must be tried and determined under the general rules for the decision of regular suits. Such suits as are referrible to the Collector are not cognizable by the *Sudder Ameens* or *Moonsiffs* for the following reasons. *First:* Clause 6, Section 30, Regulation II. 1819, provides that "the Collector, on closing his proceedings, shall transmit them, with all the documents therein referred to, to the *Court by whom the reference was made*, and the *Court* shall decide the case;" so that as neither a *Sudder Ameen* or *Moonsiff*, (nor any other authority than the judge,) can refer a case to the Collector, they are not authorized to try it after it has been reported on by the Collector. *Secondly:* Clause 2, Section 31, Regulation VII. 1822,* provides, "that no such suit," (viz. a regular suit to set aside or alter a summary judgment passed by a Collector,) "shall be cognizable by, or referrible to any register, *Sudder Ameen* or *Moonsiff*." The report of the Collector is, in point of fact, a summary judgment as to the validity of the alleged rent-free tenure, liable under

* Section 31, Regulation VII. 1822, has been so far modified by Section 10, Regulation VII. 1832, as to allow Principal *Sudder Ameens*, *Sudder Ameens*, and *Moonsiffs* to try regular suits to set aside summary judgments of Collectors for land rent.

Clause 6, Section 30, Regulation II. 1819, to be confirmed, altered, or set aside, according to judgment of the Civil Court finally trying the case. To refer suits so reported on to the *Sudder Ameens* or *Moonsiffs*, would be to authorize them, contrary to the spirit of Clause 2, Section 31, Regulation VII. 1822, to sit in judgment on the Collector's report.—*Circular Order of the Sudder Dewanny Adawlut, No. 95, dated 30th August,* 1833.

Collector how to proceed when such suits are referred to him or instituted before him.

On receiving a petition of the above nature from any proprietor, farmer or talookdar, claiming the revenue of any land held free of assessment in their respective estates, or on a reference being, in such case, made from a Court of Judicature, the Collector shall serve on the defendant a written notice, containing a short statement of the demand, and requiring the defendant to attend in person, or by vakeel, within the period of one month, and to produce all sunnuds or other documents in virtue of which he may possess the lands, and under which they may have been, or may be claimed to be held free of assessment.—*Reg.* II. 1819, *Sect.* 30, *Cl.* 2.

Continuation of the same subject.

When the defendant shall appear and deliver up his title deeds, the Collector after allowing the claimant to inspect and examine them, shall call upon him to deliver, within the period of seven days, a full statement of the grounds on which, with reference to the documents, he may consider the tenure of the defendant invalid, and the lands liable to assessment, with all documents on which his claim to the revenue of them may be founded.—*Reg.* II. 1819, *Sect.* 30, *Cl.* 3.

Ditto Ditto.

When the claimant shall have delivered in the said statement and documents, the Collector shall proceed to investigate the case, and to record his final judgment on it, in the same manner and with the same powers as in cases in which he may himself propose to assess lands on account of Government. *Reg.* II. 1819, *Sect.* 30, *Cl.* 4.

Parties subject to the same rules regarding stampt paper as in regular suits.

The parties shall respectively be subject to the same rules in regard to the use of stampt paper, on summoning witnesses and filing exhibits, as are prescribed for suits instituted in the Zillah or City Courts.—*Reg.* II. 1819, *Sect.* 30, *Cl.* 5.

The Collector's proceedings on suits referred to him to be returned to the Court with his sentiments.

In cases in which Government may not be itself a party, and in which the suit may have been originally instituted in a Court of judicature, the Collector, on closing his proceedings, shall transmit them, with all documents therein referred

to, to the Court by which the reference may have been made, recording his sentiments on the case as prescribed in Sections 20 and 21 of this Regulation, and the Court shall proceed to decide the case, after calling for such further evidence as may appear necessary. Provided, however, that no sunnuds, accounts or other documentary evidence of any kind, which may not have been produced before the Collector, and for not producing which the party may not have assigned a sufficient cause, shall be received by the Court.—*Reg.* II. 1819, *Sect.* 30, *Cl.* 6.

The Court will then decide the case.

If the claim shall have been prefered in the first instance to the Collector the parties may appeal to the Zillah Court.

In cases of the above description, which may have been prefered directly to the Collector, if either of the parties shall be dissatisfied with the decision passed by that officer, he shall be at liberty to appeal to the Zillah or City Court by a petition written on stampt paper of the value of one Rupee: Provided, however, that no such appeal shall be received, unless preferred within the period of three months from the date of the Collector's decision, or on good and sufficient cause being shewn for a further delay.—*Reg.* II. 1819, *Sect.* 30, *Cl.* 7.

Judge will then decide.

The judge on receiving such petition shall require the Collector to transmit all the proceedings held by him in the case with the documents therein referred to, and shall proceed to investigate and decide on the case in like manner as if it had been originally instituted in the Court, and referred by it to the Collector.—*Reg.* II. 1819, *Sect.* 30, *Cl.* 8.

In what case the proceedings to be submitted by the Collector to the Board of Revenue.

In all cases in which Government may be the defendant, or in which the revenue of the lands claimed may form part of an estate liable to a variable assessment, the Collector shall, on closing his proceedings, submit them to the Board of Revenue, or other authority exercising the powers of that Board, for their decision. In such cases, if the suit shall have been referred by a Court of Judicature, the Collector shall postpone the transmission of his return to the reference, until he shall receive the orders of the Board, or other authority aforesaid, and if the claim shall have been originally preferred to the Collector, the Courts of Judicature shall not interfere until the decision of the Board shall have been passed: Provided, however, that in all such cases the decision of the Board shall be recorded in a Persian roobakarry, and transmitted to the Collector in that form for the information of the parties—provided further, that in cases in which the claim may have been

Decision of the Board how to be communicated.

originally preferred to the Collector, the party, if dissatisfied with the decision of the Board, shall be at liberty to appeal to the Court by which the case may be cognizable, any time within the period of three months from the date on which the Board's decision may have been communicated to such party or to his vakeel, or in their absence, from the date on which the Roobakarry containing the Board's decision may have been brought on the Collector's record of the case.—*Reg.* II. 1819, *Sect.* 30, *Cl.* 9.

Parties dissatisfied at liberty to appeal to the proper Civil Courts, within specific periods.

If the party shall not apply to the Court within the said period, and shall fail to shew good and sufficient cause for the delay, the decision of the revenue authorities shall be final, and shall, on application of the party in whose favour it may have been passed, be carried into effect by the Courts of Judicature, in the manner in which the decrees of Courts are executed.—*Reg.* II. 1819, *Sect.* 30, *Cl.* 10.

If no such appeal be preferred, the decision to be final.

And to be executed by the Courts.

Provided also, that in cases in which the right of resuming the revenue of lands held free of assessment, or of recovering possession under such a tenure of lands which may have been subjected to assessment, shall have been adjudged by the revenue authorities, the Courts shall in like manner carry the decision of the said authorities into immediate effect, notwithstanding the admission of an appeal therefrom, unless the party so applying shall give good and sufficient security for the payment of the mesne profits accruing from the lands under dispute.—*Reg.* II. 1819, *Sect.* 30, *Cl.* 11.

Proviso.

In cases of the above description, which may be decided by the Courts of judicature, in appeal from the decision of the revenue authorities, whether the claim be preferred in the first instance to the Court, or Collector, a special appeal only shall be admitted by the superior Court, excepting always, cases which from their amount may be appealable to the King in Council—Provided also, that the rules contained in Section 26, of this Regulation shall be applied to all appeals of the above nature.—*Reg* II. 1819, *Sect.* 30, *Cl.* 12.

A special appeal only to lie from the decision of the Civil Court.

In modification of the rules contained in Section XXVI. and Clause twelfth, Section XXX. Regulation II. 1819, the special appeals from the decisions of the Zillah Judges, therein provided for, shall, from and after the introduction of Regulation V. 1831, into any district, lie to the Court of Sudder Dewanny Adawlut.—*Reg.* VII. 1832, *Sect.* 13.

Special Appeals from certain decisions of the Zillah Judges shall lie to the Sudder Dewanny Adawlut.

Collector to defend suits instituted by individuals to hold land exempt from the payment of revenue.

Vakeel of Government to defend or prosecute suits instituted against, or by Government.

Rules to be observed by the Collector in the event of Government being cast wholly, or in part.

The Collectors of the revenue are to defend all suits that may be instituted against Government, by any individual claiming a right to hold lands exempt from the payment of public revenue, and such suits, and the suits which the Board of Revenue may direct the Collector to institute, are to be defended and prosecuted by the Vakeel of Government under the instructions of the Collector; and in the event of Government being cast, either wholly or in part, or, if the Collector shall be dissatisfied with the decree in any respect, all the rules contained in Section 30, Regulation XIV. 1793, and the other Sections in that Regulation, respecting decisions given against a Collector in any Zillah Court, in suits instituted against him by any proprietor or farmer of land, for sums of money demanded or actually received by him as arrears of revenue, are to be held applicable to such decree, with this difference, that a suit, from the commencement of it, is to be defended or carried on at the expense of Government, and in the event of the Board of Revenue not deeming it proper to order an appeal against the decision of the Zillah Court to be preferred to the Provincial Court of Appeal, or against the decision of the Provincial Court to the Sudder Dewanny Adawlut, in the event of their ordering the case to be appealed to the Provincial Court, and of its being given against them therein, they are to report their reasons in both cases for not preferring the appeal to the Governor General in Council, who will direct the cause to be appealed or not in either case as may appear to him proper.—*Reg.* XIX. 1793, *Sect.* 15.

Persons claiming to hold lands paying Revenue, exempt from Revenue under Badshahee Grants to sue Government.

Any person having a claim to hold Lands paying Revenue, exempt from the payment of Revenue under a Badshahee Grant, must institute his claim against Government, who alone can be the Defendant in such suits, in the Dewanny Adawlut of the Zillah, in the same manner as in cases where individuals may claim a right to hold lands paying Revenue, exempt from the payment of Revenue under Grants not of the description of those termed Badshahee, in virtue of Regulation XIX. 1793. The Collectors of the Revenue are to defend all such suits as may be instituted against Government, and such Suits, and the Suits which the Board of Revenue may direct the Collector to institute, are to be defended or prosecuted by the Vakeel of Government, under the instructions of the Collector; and in the event of Government being cast, ei-

Collector to defend the suit.

Vakeel of Government to defend or prosecute

ther wholly or in part, or, if the Collector shall be dissatisfied with the decree in any respect, all the rules contained in Section 30, Reg. XIV. 1793, and the other Sections in that Regulation, respecting decisions given against a Collector in any Zillah Court, in suits instituted against him by any Proprietor or farmer of Land, for sums of money demanded or actually received by him as arrears of Revenue, are to be held applicable to such decree, with this difference, that, the suit, from the commencement of it, is to be defended or carried on at the expence of Government, and in the event of the Board of Revenue not deeming it proper to order an Appeal from the decision of the Zillah Court to be preferred to the Provincial Court of Appeal, or from the decision of the Provincial Court to the Sudder Dewanny Adawlut, in the event of their ordering the cause to be appealed to the Provincial Court, and of its being given against them therein, they are to report their reasons in both cases for not preferring the Appeal, to the Governor General in Council, who will direct the cause to be appealed or not in either case as may appear to him proper.—*Reg.* XXXVII. 1793, *Sect.* 10.

suits instituted against, or by Government.

Rules to be observed by the Collector in the event of Government being cast wholly, or in part.

Persons claiming to hold lands exempt from Revenue shall, with their petitions of plaint, deliver to the Collector or other Officer to whom the same may be preferred, all Sunnuds and other writings on which their claim may be founded; and shall insert in the said petition a full specification of the several particulars required to be registered by the rules in force, relative to the registry of rent-free tenures, and of the grounds on which their claim is founded. If the claim shall involve only the interests of Government, the Collector shall proceed without delay to investigate the case, giving, however, eight days previous notice to the party of the day on which he may propose to bring it to a hearing in the mode prescribed for the Civil Courts. If the claim shall be against any individual singly or jointly with Government, the Collector shall serve him with a notice containing a statement of the demand, and requiring his attendance in person or by Vakeel duly authorized, within the period of one month, with any papers or evidence he may desire to produce in denial of the claim: and on the appearance of such defendant the Collector after allowing him to inspect and examine the claimant's petition of plaint and the writings therein referred to, shall call upon him to de-

Specification of documents and particulars to be submitted to the Collector by persons claiming to hold lands free of assessment.

Collector, in case the claim should involve only the interest of Government, to proceed in the investigation of it, giving eight days previous notice to the party.

But if the claim be against an individual singly or jointly with Government, the collector is to serve the party with a notice containing a statement of the demand, and requiring his attendance with the necessary documents and evidence.

Defendant's answer to be given within seven days.

In such cases no further pleadings to be required but collectors may receive and record such subsidiary proceedings as are calculated to elucidate the claims.

After the receipt of the Defendant's answer, eight days notice to be given of the day on which it is proposed to bring it to a hearing.

Proviso in case an immediate decision shall be petitioned for.

liver within the period of seven days a statement of the objections he may desire to urge against the claim. In such cases no other pleadings shall be required from the parties than a plaint and answer, but it shall and may be lawful for Collectors to receive and record such subsidiary pleadings as may appear requisite for the elucidation of the merits of the claim. Collectors shall proceed to investigate every such case as soon as possible after the answer of the defendant shall be received; giving however as aforesaid eight days previous notice to the parties, of the day on which he may propose to bring it to a hearing. Provided, that in cases wherein the parties concerned, or their authorized representatives shall desire or consent (the same being signified in a written petition or Ikrarnamah to be filed with the proceedings) to have an immediate decision, whether the case shall originate in a claim on behalf of Government or in the suit of an individual, and whether the proceedings of the Collector shall be held under the provisions of Regulation II. 1819, or under those of this or any other Regulation touching the matter, it shall be competent to the Collector to proceed forthwith to the investigation and decision of the case without issuing any formal summons or notice.—*Reg.* IX. 1825, *Sect.* 5. *Cl.* 11.

The provisions of this Regulation not to extend to cases of the nature specified in the several clauses of Section 30, Regulation II. 1819, except when such cases involve the rights of Government to subject lands to assessment.

In cases of the above description, in which Government may be a party, the Collector to investigate and decide in the mode prescribed in the preceding Section.

All other cases falling within the provisions of Sec-

It is hereby declared and enacted, that the provisions of this Regulation are not intended and shall not be construed, to extend to cases of the nature specified in the several clauses of Section 30, Regulation II. 1819, save and except when such cases may involve the rights of Government to subject to assessment all, or any portion, of the lands, in respect to which the action may be brought. In cases of the above description, in which the Government may be a party, whether instituted in the first instance before the Collector, or referred to him by the Court, the Collector shall proceed to investigate and decide in the mode prescribed in the preceding Section of this Regulation: the several clauses of which shall be held to apply to such suits and all other cases falling within the provision of Section 30, Regulation II. 1819, in which the Government is not itself a party, shall be heard and determined under the rules therein enacted, and the subsequent modifica-

tions of them declared in Section 5, Regulation IX. 1825.—*Reg.* III. 1828, *Sect.* 5.

tion 30, Regulation II. 1819, in which Government is not itself a party, shall be heard and determined under the rules therein enacted, as modified by Section 5, Regulation IX. 1825.

Special Deputy Collectors not to try rent-free claims between individuals under Sect. 30, Reg. II. 1819.

In consequence of a reference which has been made to this office on the subject, I am directed by the Sudder Board of Revenue to inform you, that suits under Section 30, Regulation II. of 1819, between individuals respecting claims to rent-free lands, are to be decided, as heretofore, by the ordinary Revenue Authorities, and not referred to the Special Deputy Collectors.—*Letter to the Commissioners of Revenue. Cir. Ord. S. B. R. No.* 23, *April* 18, 1837.

Collectors, not to transfer to Special Deputies for Resumption cases, under Section 3, Regulation II. 1819.

I am directed by the Sudder Board of Revenue to transmit, for your information and guidance, and for communication to the Authorities concerned, within your Division, the accompanying copy of a letter from Mr. Secretary Mangles, No. 472, dated the 11th ultimo, and its enclosures, ruling that cases under Section 30, Regulation II. of 1819, are not within the province of a Special Deputy Collector, appointed for Resumption purposes, and that all duties, under that Section, must be retained by the Collectors of Revenue.—*Letter to the Commissioners of Revenue. Cir. Ord. S. B. R. No.* 30, *May* 9, 1837.

Letter from the additional Secretary, Sudder Board, to the Secretary to the Government of Bengal, Revenue Department, No. 385, *dated the* 18*th July*, 1837.

Cases under Section 30, Regulation II. of 1819, when Government has become Zemindar by purchase, are nevertheless, not cognizable by Resumption officers.

1. I am directed to submit, for the information and orders of the Right Honourable the Governor of Bengal, the accompanying letter from the Commissioner of Bauleah requesting the opinion of the Board "as to who is the authority to decide suits for resumption of lands, held under grants for less than 100 bigahs, situated in permanently assessed Estates, of which Government has become the Zemindar by purchase."

2. Government recently determined that cases coming under Section 30, Regulation II. of 1819, should be decided by the ordinary Revenue Authorities. The cases referred to are

those in which the holder of a permanently settled Estate claims to resume rent-free tenures of less than 100 bigahs, which are included within the limits of his Estate, and it follows, from this construction of the law, that when Government, as proprietor of a permanently settled Estate, asserts a similar claim, the right should, in like manner, be determined by the ordinary Collector and not by the Special Deputy Collector.

3. It is possible, however, that the Government may think fit that some change should be made in the law in this respect in the forthcoming comprehensive enactment on the subject of rent-free tenures, and the Board have therefore directed me to call the attention of Government to the case.

Letter from the Commissioner of Bauleah, to the Sudder Board, No. 191, *dated the* 23*rd June,* 1837.

I have the honour to request your opinion as to who is the authority to decide suits for resumption of lands, held under grants for less than 100 bigahs, situated in permanently assessed Estates, of which Government has become the Zemindar by purchase?

Letter from the Officiating Deputy Secretary to the Government of Bengal, to the Officiating Additional Secretary to the Sudder Board, No. 1067, *dated the* 1*st August,* 1837.

I am directed by the Right Honourable the Governor of Bengal to acknowledge the receipt of your letter of the 18th ultimo, with its enclosure, and to inform you in reply, that in all cases of the nature alluded to by you, the Government is to be dealt with, as any other Zemindar, and suits under Section 30, Regulation II. of 1819, should be decided by the Collector of Revenue.—*Cir. Ord. S. B. R. No.* 69, *Aug.* 14, 1837.

1. The Sudder Board having had occasion to observe that the provisions of Sections 6 and 9, Regulation XIX. of 1793, have been overlooked by Settlement Officers and Commissioners, direct me to draw your attention to the subject and to point out to you, that, vested as you are with the powers of the late Board of Revenue you are competent to dispose of cases of the nature therein provided for without reference to this Office.

2. You will readily perceive on a careful perusal of the Sections above noticed, that, the Government Settlement Officers will have to deal with such cases, only when the Revenue of the lands may be payable to the State. On such occasions a separate settlement statement will not be requisite, but the Jumma which may be assessed on the lands to be held as a dependent Talook, will be included in the gross assets forming the basis of settlement of the Estate to which they (the lands) belong, whenever that settlement may be concluded and submitted for the sanction of Government.

3. You are requested to issue appropriate instructions to all the Settlement Officers in your division for their future guidance.—*Letter to the Commissioner of Revenue. Cir. Ord. S. B. R. No.* 77, *Sept.* 22, 1837.

SECTION XIX.

Rent free lands held by independent Chiefs.

Extract from the proceedings of the Right Honourable the Governor General of India in Council, in the Political Department, under date the 6*th of July*, 1840.

Extract from a General Letter from the Hon'ble the Court of Directors, dated 24th April, No. 19 of 1840.

Para. 6th. When an independent Chief holds lands even on ordinary rent-free tenure, his title should not be lightly called in question and an investigation when requisite, should, as Lieutenant Colonel Alves pointed out, be made by our Political and not by our Revenue Officers.

Ordered that a copy of the foregoing extract be sent to the Revenue Department of the Government of India for information.—*Cir. Ord. S. B. R. No.* 29, *Aug.* 12, 1840.

CHAPTER III.

SETTLEMENT OF RESUMED BADSHAHEE AND HOOKAMEE TENURES.

SECTION I.

Settlement of Badshahce Tenures.

Modifications of former Regulations relative to the settlement of resumed Jageer, Altumgha, Mududmash, Ayma or other Badshahee grants and to the resumption of Lakheraj tenure.

In modification of the existing Rules contained in Regulations XXXVII. 1793, XLII. 1795, and XXXVI. 1803, or any other Regulation in force, relative to the settlement of resumed Jageer, Altumgha, Mududmash, Ayma, and other grants of land termed Badshahee, or Royal; and generally in qualification and explanation of all the Rules in force relative to the resumption of Lakheraj tenures, and the future assessment of lands composing the same; it is hereby further declared, that whenever such tenures may be pronounced invalid, or extinct, by a Revenue Board, or other authority empowered to investigate the Lakheraj title in such tenures, under the provisions of Regulation II. 1819, or of any other Regulation in force, it shall be competent to the Governor General in Council, on a special report of the circumstances of the case, when it may appear just and proper, in consideration of the long possession of the actual occupant of the land or of his ancestors, to direct his continuance in possession though not the Zemindar, Talookdar, or other Malik of the land, on his engaging for the future assessment, on such terms as may be prescribed by Government, and in such cases the whole of the provisions contained in Sections 2 and 3, of this Regulation, shall be deemed applicable, and be maintained by the Courts of judicature accordingly.—*Reg.* XIII. 1825, *Sect.* 5.

Under certain circumstances Minhydars and their heirs may be continued by Government in possession of resumed Lands heretofore held as La-

In cases of Lakheraj tenures resumed under the provisions of Regulation IV. 1808, Regulations II. and V. 1816, or any other Regulation in force, relative to lands held by Canoongoes by virtue of their offices, where the Minhye or Lakheraj tenure, and the right of property in the land, are vested in distinct parties, it shall be competent to the Governor General in Council, by instruction to the Revenue Board,

or other authority, empowered to make the resumption, to continue the Minhyedars and their heirs, in possession and management of such Lands, subject to such assessment as he shall judge it proper to direct: and the parties claiming the Zemindaree interest, or other proprietary right in such Mehals, shall not be entitled to any Land-rent, produce, or profit beyond what they may have enjoyed up to the period of the resumption of the tenure, or would have been entitled to receive, in the event of Government having confirmed the same in perpetuity, free of assessment. Persons consequently claiming to be Maliks of the said Lands, who, during the continuance of the Lakheraj tenure, had not possession of the same, whether they received a Malikana allowance, or otherwise, shall not disturb the possession of the Minhyedars, or their heirs and representatives, in any case wherein the Governor General in Council may have sanctioned such possession; and any suit preferred by such persons in a Court of Judicature, to recover possession, contrary to the intent and meaning of this rule, shall be dismissed with costs. Provided, however, that in all cases of the nature abovementioned, wherein the Zemindar, or other proprietor of the Land, may have received Malikana, or other proprietary due, during the existence of the Lakheraj tenure, he shall continue to receive the same, notwithstanding the resumption of the Lakheraj, in like manner, as if such resumption had not taken place.—*Reg.* XIII. 1825, *Sect.* 2.

Canoongoes.

Subject to assessment.

Restriction on parties claiming Zemindaree interest or other proprietary right.

Who are prohibited from disturbing the possession of Minhyedars whose possession has been sanctioned by Government.

Proviso.

The tenures of the Minhyedars which have been confirmed to them, with the sanction of Government, by the arrangement referred to in the Preamble of this Regulation, or which may be so confirmed, in conformity with the preceding Section, are declared to be hereditary and transferrible: but should they escheat to Government, the parties possessing a Zemindaree interest or other proprietary right in the Lands, will be admitted to engage for the Revenue, subject to a fresh assessment, to be adjusted on the actual assets under the general Regulations.—*Reg.* XIII. 1825, *Sect.* 3.

The tenures of Minhyedars so situated declared to be hereditary and transferrible, but should they escheat to Government the parties possessing Zemindaree interest will be admitted to engage for the revenue, subject to a fresh assessment.

When a Badshahee Tenure shall be declared liable to assessment, if the original grantee and his successors or representatives shall have continued in the uninterrupted possession and management of the Tenure for a period of sixty years, or if they shall have continued for a period of sixty years, in the uninterrupted receipt of a specific portion of the produce of the lands included in the tenure, under the denomination of rent paid to them by a party occupying and managing the tenure as their agent or farmer, and not having a proprietary right in the lands, it shall be incumbent on the officer empowered to investigate the Lakheraj title, in such tenures, to report the

circumstances of the case, as required by Section 5, Regulation XIII. 1825, in order that the settlement of the tenure may be authorized to be made with the Lakherajdar, at a jumma assessed on the actual rent-produce of the lands, under the general rules contained in Regulations VIII. of 1793, VII. of 1822, IX. of 1825, and IX. of 1833; and the tenure, when so settled, shall be held to be hereditary and transferrable, and the party claiming the proprietary right or milkeeut in the lands, shall not disturb the possession of the Lakherajdar, or his heirs, or representatives, and any suit preferred by such party in a Court of Judicature shall, as provided for by Section 2, of the aforesaid Regulation, be dismissed with costs.—*Cir. Ord. S. B. R. No. 62, June 14, 1837, Rule 1.*

If the proprietor or malik of the lands included in a resumed tenure, shall have continued in the possession and management of the lands, after the creation of the tenure, paying the Government share of their produce to the Lakherajdar, the settlement shall be made with such proprietor or malik under the general rules contained in the Regulations abovementioned; and it shall be lawful for the governor of the Presidency to grant to the Lakherajdar, if in destitute circumstances, such pension for life as may be deemed proper.—*Cir. Ord. S. B. R. No. 62, June 14, 1837, Rule 2.*

I am directed by the Sudder Board of Revenue to send you, for the information and guidance of the several Settlement Officers in your Division, the accompanying copy of the orders of Government in the Revenue Department, under date the 8th instant, No. 796 directing that the accompanying new Rule for the Regulation of the grant of Malikana, in cases of Settlement of Resumed Lakheraj Lands being made with the late Lakherajdars, be substituted for the Rules Nos. 3, 4 and 5 of the Badshahee, and Nos. 4, 5 and 6 of the Hookamee rules approved by Government on the 5th June last.—*Letter to the Commissioners of Revenue.—Cir. Ord. S. B. R. No. 38, May 29,* 1838.

In reply to your letters No. 86 of the 27th February last, and No. 229 of the 1st instant, with their respective enclosures, I am directed by the Honourable the Deputy Governor of Bengal to communicate, for the information and guidance of the Board, the annexed Rule for the Regulation of the grant of Malikanah in cases where the Settlement of Resumed La-

kheraj lands is made with the late Lakherajdars, which His Honour, with the sanction of the Honourable the President in Council, has been pleased to substitute for Rules Nos. 3, 4, and 5 of the Badshahee, and Nos. 4, 5, and 6 of the Hookamee Rules, approved by the Supreme Government on the 5th of June last.

Rule.

When the Settlement of lands included in a Resumed Grant shall be made with the Lakherajdars; if the person claiming to be Proprietor or Malik of the Lands shall have received Malikanah in money, kind or land, within the twelve years antecedent to the Resumption of the tenure or have preferred a well founded claim thereto before a competent tribunal within that period, he shall, after the Resumption, receive from Government in perpetuity an annual allowance, which shall not in any case exceed 10 per cent. on the net rental* at the time of Settlement, to be paid to him by the Collector.—*Letter to the Offg. Secy. to the Sudder Board of Revenue. Cir. Ord. S. B. R. No.* 796, *May* 8, 1838.

I am directed by the Sudder Board of Revenue to communicate for the information and guidance of all officers employed on Settlements, that, under orders of the Honourable the Deputy Governor, the charge of Malikana payable to Maliks, under the modified rule of 8th May 1838, is, in all cases, to be borne by the state and by the engaging Lakherajdar in shares proportionate to their shares of the whole rental. If therefore of the whole rental taken as 100, the Settlement assigns 70 to the State, and 30 to the Lakherajdar, the charge of Malikana will be borne by the State and the Lakherajdar in like proportion. If the Settlement assign 50 to the State and 50 to the Lakherajdar, the Malikana will be paid by these two parties in equal shares.—*Letter to the Commissioner of Revenue. Cir. Ord. S. B. R. No.* 22, *August* 21, 1839.

If the party claiming the proprietary right shall be allowed Malikana under Rule III. he shall be entitled to a money compensation for loss of settlement, in addition to the annual Malikana allowance awarded to him, which compensation shall be calculated at ten years' purchase, on the difference between

* By net rentals is meant the Rental minus the usual deduction for expences and risks.

his Malikanah allowance, and the Zemindaree profits (Malikanah inclusive) which he would have received annually, had the settlement been made with him; the said Zemindaree profits being assumed at 20 per cent. on the gross Jummabundee or rental of the lands.—*Cir. Ord. S. B. R. No.* 62, *June* 14, 1837, *Rule* 6.

No claim to Malikanah, or to compensation for loss of settlement, shall be entertained, which shall not be preferred to the Revenue Authorities previous to the sanction by Government of the settlement with the Lakherajdar; nor shall any claim, not so preferred in the first instance, be cognizable in the Courts of justice.—*Cir. Ord. S. B. R. No.* 62, *June* 14, 1837, *Rule* 7.

If a Lakherajdar, entitled to settlement under Rule I. refuse to engage on terms approved by the Sudder Board of Revenue, the settlement for his tenure shall be made with the proprietor or malik of the lands included in the tenure, if there be one, under the general Regulations, and the recusant Lakherajdar shall not be entitled to any allowance of Malikanah. —*Cir. Ord. S. B. R. No.* 62, *June* 14, 1837, *Rule* 8.

If the Title Deeds on which a Lakherajdar claims to hold his lands free of assessment, shall have been declared, by a final judgment of a competent Court, to have been forged or fraudulently altered, no length of possession, either in the occupant or his ancestors, shall be held by the Revenue Authorities to entitle him to a settlement for the lands; but the settlement shall be made with the proprietor or malik of the lands if there be one, under the general Regulations. But this rule shall not preclude the Government in its executive capacity, from admitting the disseized Lakherajdar to settlement, if, with reference to length of possession or other circumstances, it should be deemed right so to admit him, nor shall it endamage the claim of any party who may hold a tenure by right of purchase, and who shall prove to the satisfaction of the Revenue Authorities that the purchase was made by him in good faith, and in the belief that the title deeds previously forged or fraudulently altered, were good and valid documents. —*Cir. Ord. S. B. R. No.* 62, *June* 14, 1837, *Rule* 9.

In explanation of Rule IX. for the Settlement of Resumed Badshahee Tenures, I am directed by the Sudder Board of Revenue to inform you for your guidance, and that of the of-

ficers subordinate to you employed on duties of Resumption and Settlement, that the penalty of exclusion from Settlement is to be enforced against the disseized Lakherajdar only in the case of forgeries, in which a fraudulent intention on the part of the present possessor of the Resumed Tenure may be apparent.—*Letter to the Commissioner of Revenue. Cir. Ord. S. B. R. No.* 27, *July* 29, 1840.

SECTION II.

Settlement of Hookamee Tenures.

The principles of the above Sections to be applicable to all cases of Lakheraj resumptions coming within certain rules.

The principles of Sections 2 and 3 of this Regulation shall be considered applicable to all cases of Lakheraj resumption under the general Regulations in force, which may come within the favourable rule of assessment contained in the Second Clause of Section 8, Regulation XIX. 1793, in the Provinces of Bengal, Behar, and Orissa; or the Second Clause of Section 8, Regulation XLI. 1795, in the Province of Benares, it being the evident intention of the Rule in question that it should be applied to persons who had been long in possession of the Lakheraj tenures made subject to assessment by the Regulations above cited; and whom it appeared equitable, in consideration of their long possession, to leave in occupancy of the Lands composing their respective tenures, at a moderate assessment, not exceeding a moiety of the Annual rent produce. —*Reg.* XIII. 1825, *Sect.* 4.

[For Sections 2 and 3 vide page 199.]

When a Hookamee tenure shall be declared liable to assessment, if the original grantee and his successors or representatives shall have continued in the uninterrupted possession and management of the tenure for a period of sixty years, or if they shall have continued for that period in the uninterrupted receipt of a portion of the produce of the lands included in the tenure, under the denomination of rent paid to them, by a party occupying and managing the tenure, as their agent or farmer, and not having a proprietary right in the lands; it shall be incumbent on the officer, empowered to investigate the Lakheraj title in such tenures, to report the circumstances of the case, as required by Section 5, Regulation XIII. 1825,

in order that the settlement may be authorized to be made with the Lakherajdar; and the tenure, when so settled, shall be held to be hereditary and transferable, and the party claiming the proprietary right or milkeeut in the lands, shall not disturb the possession of the Lakherajdar or his heirs or representatives; and any suit preferred by such party, in a Court of justice, shall, as provided for by Section 2 of the aforesaid Regulation, be dismissed with costs.—*Cir. Ord. S. B. R. No.* 62, *June* 14, 1837, *Rule* 1, *Cl.* 1.

If the original grantee and his successors or representatives shall not have been in the possession and management of the tenure under the resumed grant for so long a period as sixty years, but shall have obtained possession of it previous to the 1st of December 1790, the settlement shall be made with the Lakherajdar in the manner provided for in the foregoing clause; but any dispute regarding the proprietary right or milkeeut in the lands, between the grantee and grantor, or other party, or their respective heirs, or successors, is to be considered as a matter of a private nature, to be determined by the civil courts; and the Lakherajdar shall continue in possession, until dispossessed by a decree of a competent Court of justice.—*Cir. Ord. S. B. R. No.* 62, *June* 14, 1837, *Rule* 1, *Cl.* 2.

If the proprietor or malik of the lands included in a resumed tenure, shall have continued in the possession and management of the lands after the creation of the tenure paying the Government share of their produce to the Lakherajdar, the settlement shall be made with such proprietor under the general Regulations, and it shall be lawful for the Governor of the presidency to grant to the Lakherajdar, if in destitute circumstances, such provision for life as may be deemed proper.—*Cir. Ord. S. B. R. No.* 62, *June* 14, 1837, *Rule* 3.

I am directed by the Sudder Board of Revenue to send you, for the information and guidance of the several Settlement Officers in your Division, the accompanying copy of the orders of Government in the Revenue Department, under date the 8th inst. No. 796, directing that the accompanying new Rule for the Regulation of the grant of Malikana, in cases of Settlement of Resumed Lakheraj Lands being made with the late Lakherajdars, be substituted for the Rules Nos. 3, 4, and 5 of the Badshahee and Nos. 4, 5, and 6 of the Hookamee rules

approved by Government on the 5th June last.—*Letter to the Commissioner of Revenue. Cir. Ord. S. B. R. No.* 38, *May* 29, 1838.

In reply to your letters No. 86 of the 27th February last, and No. 229 of the 1st instant, with their respective enclosures, I am directed by the Honourable the Deputy Governor of Bengal to communicate, for the information and guidance of the Board, the annexed Rule for the Regulation of the grant of Malikanah in cases where the settlement of Resumed Lakheraj lands is made with the late Lakherajdars, which His Honour, with the sanction of the Honourable the President in Council, has been pleased to substitute for Rules Nos. 3, 4, and 5 of the Badshahee, and Nos. 4, 5, and 6 of the Hookamee Rules, approved by the Supreme Government on the 5th of June last.

Rule.

When the settlement of lands included in a Resumed Grant shall be made with the Lakherajdars—if the person claiming to be Proprietor or Malik of the Lands shall have received Malikanah in money, kind or land, within the twelve years antecedent to the Resumption of the tenure or have preferred a well founded claim thereto before a competent tribunal within that period, he shall, after the Resumption, receive from Government in perpetuity an annual allowance, which shall not in any case exceed 10 per cent. on the net rental,* at the time of settlement, to be paid to him by the Collector. —*Letter to the Officiating Secretary to the Sudder Board of Revenue. Cir. Ord. S. B. R. No.* 796, *May* 8, 1838.

If the party claiming the proprietary right in the lands shall be allowed malikanah under Rule IV. he shall be entitled, in all cases where the settlement has been made with the Lakherajdar under Clause 1, Rule I. to a money compensation for loss of settlement in addition to the annual malikanah allowance awarded to him ; which compensation shall be calculated at ten years' purchase, on the difference between his malikanah allowance and the Zemindaree profits, (malikanah inclusive,) which he would have received annually, had the settlement been made with him, the said Zemindaree profits being

* By net rentals is meant the Rental [illegible] the usual deduction for expenses and risks.

assumed at 20 per cent. on the gross Jummabundee.—*Cir. Ord. S. B. R. No. 62, June 14, 1837, Rule 7.*

I am directed by the Sudder Board of Revenue to communicate for your information, and that of your subordinates, the annexed Extract (Para. 4,) of a letter from Government under date the 1st August last, modifying No. 7 of the Rules regarding the Settlement of Resumed Hookamee Tenures, communicated with their Circular Orders, No. 62, of the 14th July 1837.—*To all the Commissioners of Revenue for the Division of ——— (except Assam, Arracan and Tenasserim.) Cir. Ord. S. B. R. No. 6, Feb. 26, 1840.*

Para. 4. Referring to the last paragraph of your letter, No. 198 of 9th November last, and the opinion therein expressed, viz. that Rule VII. of the Hookamee Rules of June 1837, ought not to be considered as including cases in which under Section 4, Regulation XIII. 1825, the Maliks have already been debarred from Settlement by an Equitable Law, and that in these cases the Malik cannot be held entitled to any compensation for the loss of Settlement, I am directed to state that the Deputy Governor entirely concurs in this construction of the rule, and desires that it may be acted on accordingly.—*Extract of a letter from Government, under date the 1st August last. Cir. Ord. S. B. R. No. 6, Feb. 26, 1840.*

No claim to malikanah, or to compensation for loss of settlement, shall be entertained, which shall not be preferred, in the first instance, to the Revenue Authorities, previous to the sanction by Government of the settlement with the Lakherajdar, nor shall any claim not so preferred be cognizable in the Courts of justice.—*Cir. Ord. S. B. R. No. 62, June 14, 1837, Rule 8.*

If a Lakherajdar entitled to settlement under Rule I. not being malik of the lands included in his tenure, refuse to engage on terms approved by the Sudder Board of Revenue, the settlement shall be made with the proprietor or malik, if there be one, and the recusant Lakherajdar shall not be entitled to any allowance of malikanah.—*Cir. Ord. S. B. R. No. 62, June 14, 1837, Rule 9.*

If the Title Deeds on which a Lakherajdar claims to hold his lands free of assessment, shall have been declared by a final judgment of a competent Court to have been forged or fraudulently altered, no length of possession, either in the oc-

cupant or his ancestors, shall be held by the Revenue Authorities to entitle him to a settlement for the lands, but the settlement shall be made with the proprietor or malik of the lands under the general Regulations. But this rule shall not preclude the Government, in its executive capacity, from admitting the disseized Lakherajdar to settlement, if, with reference to length of possession, or other circumstances, it should be deemed right to admit him, nor shall it endamage the claim of any party who may hold a tenure by right of purchase, and who shall prove to the satisfaction of the Revenue Authorities, that the purchase was made by him in good faith, and in the belief that the Title Deeds, previously forged or fraudulently altered, were good and valid documents.—*Cir. Ord. S. B. R. No.* 62, *June* 14, 1837, *Rule* 10.

In explanation of Rule IX. for the Settlement of Resumed Badshahee Tenures, I am directed by the Sudder Board of Revenue to inform you for your guidance, and that of the officers subordinate to you employed on duties of Resumption and Settlement, that the penalty of exclusion from Settlement is to be enforced against the disseized Lakherajdar only in the case of forgeries, in which a fraudulent intention on the part of the present possessor of the Resumed Tenure may be apparent.—*Letter to the Commissioner of Revenue. Cir. Ord. S. B. R. No.* 27, *July* 29, 1840.

The revenue officers employed to give effect to the foregoing Rules, should be informed that the management of a rent-free tenure by the Mocuddum or head ryot of the village in which the tenure is situated, and the receipt from the Lakherajdar by such Mocuddum of an allowance in land, money, or kind for his services, are not evidence of his (the Mocuddum's) proprietary right in the lands, and that a claim for Malikanah and compensation for loss of settlement of a resumed tenure, of which the Lakherajdar and his ancestors have had possession, or have enjoyed the rents for a period of sixty years, cannot be considered an admissible claim, unless it be proved, by satisfactory evidence, that the party advancing such claim has actually received from the Lakherajdar an allowance in acknowledgment of his proprietary right up to the date of resumption, or that he comes within the scope of Clause 2, of Rule III. relating to Badshahee, or of Clause 2, of Rule IV. relating to Hookamee tenures.—*Cir. Ord. S. B. R. No.* 62, *June* 14, 1837.

SECTION III.

Indulgence to disseized holders of Badshahee Grants.

Persons who are deprived under the operation of the Resumption Laws, of the possession of lands which have been held by them free of assessment, under grants of the description termed Badshahee or Royal, shall be allowed, with exception to special cases in which the parties are KNOWN to have other adequate means of subsistence, a pension from the bounty of the Government, for the life or lives of the person or persons actually ousted, by whom are to be understood the defendant or defendants in the Resumption Suit. Such pension to be sufficient in amount for their suitable maintenance, but not to exceed in the aggregate, in any case, half of the assessment which may be imposed on the resumed tenure, and where there is more than one claimant, to be divided into shares in the proportion of the interests in the tenure which were possessed by the claimants respectively.—*Cir. Ord. S. B. R. No.* 17, *Feb.* 22, 1836, *Rule* 1.

No pension shall be allowed under these Rules excepting under the sanction of Government, on a report from the Revenue authorities.—*Cir. Ord. S. B. R. No.* 17, *Feb.* 22, 1836, *Rule* 2.

The officer passing the final award of Resumption, the Collector or other officer possessing similar powers, in cases not appealed, after the expiration of six months from the date of passing his decision, and the Special Commissioner, under Regulation III. 1828, in cases appealed, IMMEDIATELY on passing his decision, shall in all instances of declaring a tenure of the description termed Badshahee or Royal invalid, communicate, with special reference to these Rules, a copy of his Decree in the case, to the Commissioner of Revenue for the Division in which the tenure is situated, who shall make a Report, on the presentation of a special petition for a Pension under these Rules from the party or parties, through the Sudder Board for the orders of Government, specifying the amount of Pension, which, after communicating with the Local Officers, he may think adequate and proper, with reference to the Rules, and to all the circumstances of the individuals concerned, for the consideration and orders of the Board. —*Cir. Ord. S. B. R. No.* 17, *Feb.* 22, 1836, *Rule* 3.

The Sudder Board shall, after receiving the Report of the Commissioner, be competent to direct the Local Authorities temporarily to grant such an amount of Pension as they may deem a suitable support, pending the determination of the Government on the Report which they will, without delay, submit in each case, and subject to whatever modification the orders of the Government may direct, with reference to all the circumstances of the case.—*Cir. Ord. S. B. R. No.* 17, *Feb.* 22, 1836, *Rule* 4.

A pension granted under these Rules shall be considered permanent, only from the date of the orders of the Government, and in like manner shall be liable to alteration or discontinuance under the orders of Government, in the event of satisfactory proof being exhibited that subsequent accession of property has afforded ample provision, and rendered the bounty of Government no longer necessary.—*Cir. Ord. S. B. R. No.* 17, *Feb.* 22, 1836, *Rule* 5.

No Pension granted under these Rules shall be continued beyond the life or lives of the party or parties, to whom it may be granted, on whose demise it shall wholly and finally lapse. *Cir. Ord. S. B. R. No.* 17, *Feb.* 22, 1836, *Rule* 6.

Pensions granted under these Rules are to be made payable from the Treasury of the district from which the Pensioner or Pensioners may desire to draw them, and are to be paid under the rules and precautions prescribed in the Regulations and Circular Orders in regard to the payment of miscellaneous Pensions generally,—especial care being taken to prevent the extension of the payment of any Pension beyond the life of the Pensioner.—*Cir. Ord. S. B. R. No.* 17, *Feb.* 22, 1836, *Rule* 7.

The Special Commissioners under Reg. III. 1828, will be furnished with copies of the Correspondence and Rules from this Office, and will be requested, in all instances of their declaring, in their decisions in appeal, a tenure of the description termed Badshahee or Royal, situated within your Division, in which the occupant is not the proprietor, invalid, to communicate IMMEDIATELY copies of such decisions to your office, with special reference to the provision in paragraph 3 of the Rules, as approved by the Supreme Government. You will be pleased to make, from your office, the necessary intimation, on this point, to the Collectors (or Deputy Collectors possessing pow-

ers to adjudicate Resumption Suits, as the case may be) of your division.—*Cir. Ord. S. B. R. No.* 17, *Feb.* 22, 1836, *Ord.* 2.

You will observe from the First Article of the Rules, that the general rule is to be, to allow pensions to dispossessed Badshahee grantees; and that the withholding of a pension is to be a special exemption, "in cases in which the parties are KNOWN to have other adequate means of subsistence." It is not desired that in your communications with the Local officers of Districts subordinate to you, under Article 3 of the Rules, with a view to ascertain whether this special ground of exception exists in any particular instance, you should authorize the institution of any minute and vexatious investigations. It will be sufficient to direct the Collectors to make such inquiries as are immediately and easily within their reach,—as, for instance, by satisfying themselves in every case, by a recorded report from the proper Amlah of their establishments, whether the applicant for a pension is the registered proprietor of any landed estate situated within their respective Districts, or is otherwise known to be the proprietor of any landed property although not so registered, or of any real property or income sufficient for his respectable maintenance:—in short, to take such precautions as shall prevent the benevolent intentions of Government from being abused by the recommendation of pensions to parties otherwise in easy circumstances.—*Cir. Ord. S. B. R. No.* 17, *Feb.* 22, 1836, *Ord.* 3.

With respect to the provision in the First of the Rules, that the Pensions granted in any one case are to exceed "one half of the ASSESSMENT which may be imposed on the resumed tenure," I am desired to remark that the assessment,—where a permanent settlement of the mehal cannot be immediately made,—must be calculated with reference to the best data at the time obtainable; that is, on the jumma engaged for, if there be a temporary settlement, or on the net estimated Jumma Bundee, if the mehal be under khaus management.—*Cir. Ord. S. B. R. No.* 17, *Feb.* 22, 1836, *Ord.* 4.

With reference to Article 3 of the Rules, I am desired to intimate that no step is to be taken from your office, consequent on the receipt of the copy of the Resumption Decree, until the receipt of a petition from the parties, ousted by the Resumption Decree, praying to be admitted to a pension, and

distinctly stating that they have no adequate means of support. With a view to this essential condition of the indulgence now conceded by Government being fully and generally understood, it will be advisable that a careful translation of the rules and a notice appended thereto, explanatory of this condition, be prepared in the native languages, and kept permanently fixed up in a conspicuous place or places of ALL the public offices in every district subordinate to you. Especial attention may at the same time be called to Article 6 of the Rules, which declares that pensions granted under them shall, on the demise of the pensioners, finally and absolutely lapse.—*Cir. Ord. S. B. R. No.* 17, *Feb.* 22, 1836, *Ord.* 5.

It appears only necessary to add, with advertence to the latter part of Article 5 of the Rules, that, in accordance with the principle of the instruction in paragraph 3 of this letter, it is not intended that minute and zealous scrutinies should at any time be set on foot by the Revenue Officers, with a view to the discovery of the "satisfying proof," alluded to in that article. All that is contemplated is, that the bounty of Government shall not be misapplied by continuing to confer it upon parties who may be known no longer to stand in need of it.—*Cir. Ord. S. B. R. No.* 17, *Feb.* 22, 1836, *Ord.* 6.

SECTION IV.

Amount of Assessment.

[BADSHAHEE GRANTS.] Lands included in resumed Grants to be assessed, and the Revenue to be paid by the proprietor, according to the Regulations for the Decennial Settlement.

When any badshahee grant shall be resumed, or expire, or escheat to Government, the revenue to be paid to Government from the lands included in it shall be assessed and the settlement made in perpetuity, agreeably to the rules for the decennial settlement contained in Regulation VIII. 1793, with the person possessing the Zemindarry or proprietary right in the lands, whoever he may be. If the proprietor shall refuse to pay the Jumma demanded of him, the lands shall be held khaus, or let in farm, as directed in that Regulation.—*Reg.* XXXVII. 1793, *Sect.* 6.

[HOOKAMEE GRANTS.] If the grant shall have been made

If the grant shall have been made previous to the Bengal year 1178, or the Fussily or Willaity year 1179, (according as the lands may be situated in Bengal, Behar, and Orissa,) the

previous to the Bengal year 1178, or the Fussily or Willaity year 1179.

revenue to be paid to Government shall be equal to one-half of the annual produce of the land, calculating according to the rates at which other lands in the pergunnah of a similar description may be assessed. If any part of the land shall be uncultivated, the proprietor is to be required to bring it into cultivation, and to pay such russud or progressive increase, to be regulated with a reference to the reduced rate of the assessment on the cultivated land, as the Board of Revenue, with the sanction of the Governor General in Council, may deem reasonable. The produce of the land shall be ascertained by a survey and measurement, one-half of the expense attending which, is to be defrayed by the proprietor, in the event of his agreeing to the jumma required of him, and the other moiety by Government; or, by such other mode of investigation as the Collector, with the sanction of the Board of Revenue, may judge advisable. If the proprietor shall refuse to agree to the assessment, the lands are to be let in farm or held khaus, under the rules prescribed in Regulation VIII. 1793. If the proprietor shall agree to pay the revenue that may be required of him, the amount shall not be liable to any variation in future, but he, and his heirs and successors, shall hold the lands at such fixed revenue for ever.—*Reg.* XIX. 1793, *Sect.* 8, *Cl.* 2.

If the grant shall have been made subsequent to the Bengal year 1178, or the Fussily or Willaity year 1179.

If the grant shall have been made subsequent to the Bengal year 1178, or the Fussily or Willaity year 1179, (according as the lands may be situated in Bengal, Behar, or Orissa,) the revenue or jumma to be paid to Government from the land, shall be assessed agreeably to the rules prescribed in Regulation VIII. 1793, for forming the settlement of estates paying revenue to Government, and the produce shall be ascertained and the expense of the investigation defrayed, in the manner specified with regard to the lands in the preceding clause. If the proprietor shall refuse to agree to the assessment, the lands are to be let in farm or held khaus under the rules for the decennial settlement. If the proprietor shall agree to pay the revenue that may be required of him, the amount shall not be liable to any variation in future, but he and his heirs and successors, shall hold the land at such fixed revenue for ever.—*Reg.* XIX. 1793, *Sect.* 8, *Cl.* 3.

I am directed by the Sudder Board of Revenue to transmit for your information and guidance, extract paragraphs 7th and

8th from a letter from the Secretary to the Supreme Government, under date the 14th ultimo, and to request that you will immediately issue such instructions, as will give prompt effect to the Orders of Government, to all officers employed on Settlement duties in your Jurisdiction.—*To all Commissioners, except Tenasserim and Arracan.*

Extract Paras. 7th and 8th from the Officiating Secretary to the Government of India's letter to the address of F. J. Halliday, Esquire, Secretary to the Government of Bengal. No. 204, *dated* 14*th October*, 1839.

7. With respect to the proposal for assessment at half the gross rental, I am directed to say, that the Honourable the President in Council after communication with the Right Honourable the Governor General, has been pleased to resolve that no settlement of land heretofore held Lakheraj in the Provinces of Bengal, Behar, and Orissa, declared liable to assessment under the Resumption laws, and entitled to a permanent Settlement, for which the late Lakherajdar shall engage, shall heretofore be made at an Assessment greater than one half of the estimated gross rental, or, in cases where the late Lakherajdar is the cultivator, one half of the gross rent value of the land.

8. The President in Council desires that the above rule may take immediate effect in favor of all laws, the Settlement of which had not been finally approved by the Honourable the Deputy Governor of Bengal, on the date of the receipt, in your Office, of my letter to your address, dated the 15th of July last, in which it was suggested that no Settlements at any higher rate of lands of this description should be confirmed, pending the consideration of this question.—*To all Commissioners, except Tenasserim and Arracan. Cir. Ord. S. B. R., No.* 28, *Nov.* 18, 1839.

All resumed Lakheraj Tenures, the settlement of which has been made at full rates with the disseized Lakherajdars subsequently to the 5th May, 1825, (the date of the promulgation of Regulation IX. of 1825,) and which are still in the possession of the late Lakherajdars, or their heirs, are to be admitted to the benefit of a half jumma assessment. The date of the Settlement Rooboocaree shall, for the purposes of this

rule, be taken for the date of settlement.—*Cir. Ord. S. B. R. No.* 30, *Aug.* 12, 1840, *Par.* 1.

Provided, however, that every resumed Tenure which has passed to other hands, whether by public or private sale, shall be excepted from the benefit of the foregoing rule, and the jumma assessed upon such Tenure shall remain unaltered as heretofore.—*Cir. Ord. S. B. R. No.* 30, *Aug.* 12, 1840, *Par.* 2.

Should any resumed Mehal, settled with the disseized Lakherajdar subsequently to the date above mentioned, have been purchased on account of Government, in consequence of arrears accruing against the Lakherajdar or his heirs, the jumma of such Mehal shall be readjusted on the ½ rental principle, and it shall be restored to the former proprietors, subject however, to all obligations and incumbrances which may, subsequent to the purchase, have supervened upon it.—*Cir. Ord. S. B. R. No.* 30, *Aug.* 12, 1840, *Par.* 3.

The readjustment of jumma prescribed by the foregoing rules, may have effect from the first of May, 1840, and shall be effected in the following manner. The Collector shall ascertain the gross assets assumed as the basis of settlement, and deducting one half as the allowance of the proprietor, shall enter the other half as the Government jumma. If there be any Malikanah allowance, payable to another party, the amount of such allowance shall be first deducted, and the remaining assets shall be equally divided between the Government and the Malgoozar.—*Cir. Ord. S. B. R. No.* 30, *Aug.* 12, 1840, *Par.* 4.

The proprietors of Resumed Lakheraj Tenures assessed at full rates, the jummas of which have been, or may hereafter be, reduced on confirmation of the Settlement by Government, shall receive back the sums which they may have paid into the Government Treasury, in excess of the reduced rate of jumma, between the date of settlement and the date of confirmation. Any disseized Lakherajdar who may have recused to the terms of Assessment shall, on entering into engagements at the reduced jumma, in like manner receive the difference between the sums actually paid into the Government Treasury, and the amount payable according to the jumma eventually approved by Government.—*Cir. Ord. S. B. R. No.* 30, *Aug.* 12, 1840, *Par.* 5.

No other refund, whether of sums paid in by disseized Lakherajdars or of payments by farmers, or of collections from

Mehals held Khaus, will be allowed.—*Cir. Ord. S. B. R. No.* 30, *Aug.* 12, 1840, *Par.* 6.

Statements shewing the readjustment of jummas, and the amount to be refunded to the Lakherajdars, shall be prepared according to the annexed forms and submitted for the information and approval of the Board, and of Government.

Statement shewing the readjustment of Jummas of Resumed Mehals, under Orders of the Government of India, dated 27th April, 1840.

1	2	3	4	5	6	7	8
Name of Mehal.	Date of Settlement.	Name of late Lakirajdar.	Name of present Proprietor.	Gross Assets.	Settled Jumma.	Reduced Jumma.	Remarks.
							Column 5 should shew the gross assets which remain after deducting the Malikana payable to other parties; and cols. 6 and 7 the Jummas heretofore paid, and now payable to Government exclusive of such Malikana.

Statement shewing the Amount of sums to be refunded to the Proprietors of Resumed Mehals under orders of the Government of India, dated 27th April, 1840.

1	2	3	4	5	6	7	8
Name of Mehal.	Date of Settlement.	Date of confirmation.	Jumma of settling officer.	Jumma fixed by Government.	Total payments from date of settlement to date of confirmation.	Total payable from ditto to ditto according to reduced Jumma.	Surplus to be refunded.

—*Cir. Ord. S. B. R. No.* 30, *Aug.* 12, 1840.

[SHIKMEE TENURES.]

It very frequently happens that, within the limits of a Resumed Mehal there are one or more subordinate or Shikmee Tenures under 100 Bigahs entitled, on resumption, to the favourable terms of Settlement prescribed by Clause 2, Section 8, Regulation XIX. of 1793, and as these have not been always treated by Settlement Officers in the same manner, nor correctly, the following instructions are issued by the Sudder Board of Revenue to secure uniformity of practice in future.

2. According to the law above quoted, the Jumma of these tenures, payable by the Proprietor to the Malgoozar of the Parent Mehal, is to be fixed at one-half the gross produce; and from this Jumma, should be deducted an allowance of 10 per cent. to the Malgoozar for the risk and trouble of collection. Thus supposing the gross produce of the Shikmee Tenure to be assumed at 100 Rs. the amount Jumma ultimately receivable by Government will be Rs. 45.*

3. This allowance of 10 per cent. on the Jumma of the Shikmee Tenures is to be assigned to the Malgoozar of the Parent Mehal whether the latter be entitled to a settlement at ½ rental or otherwise. For, as the Tenure formed no part of the assets of his Lakheraj, and the settlement of it is made with him merely as a matter of convenience, all that he can under any circumstances be entitled to, is an equitable remuneration for the trouble and risk of collection.

4. The assessment of the superior and of the subordinate tenure are distinct accounts, and the results of the two are amalgamated to form the Sudder Jumma of the whole Mehal. To shew that the above rules have been duly observed, a memorandum in the form annexed is to be attached in future to each settlement Statement, where tenures of the nature referred to may exist, exhibiting distinctly the assessment of the subordinate Tenures and of the Parent Mehal.

* Gross Produce of Shikmee Tenure, ...	100	0	0
Jumma Payable by holder to the Superior Malgoozar, ...	50	0	0
On which allow 10 per cent. to the Superior Malgoozar, ...	5	0	0
Remainder to be added to the Jumma of the Superior Malgoozar, ...	45	0	0

Assessment of dependent Talooks entitled to Settlement under Clause 2, Section 8, Regulation XIX. 1793.		*Assessment of Mehal in the hands of Sudder Malgoozar.*	
Gross Produce, ...	200 0 0	Gross Rental, ...	2000 0 0
Deduct Proprietor's share, ...	100 0 0	Proprietor's share, ...	1000 0 0
Talookdaree Jumma,	100 0 0	Government Jumma,	1000 0 0
Deduct Malgoozar's allowance,	10 0 0	Add Govt. Khiraj of independent Talooks, ...	90 0 0
Government Jumma,	90 0 0	Total Sudder Jumma,	1090 0 0

—*Letter to the Commissioner of Revenue. Cir. Ord. S. B. R. No.* 52, *Aug.* 7, 1838.

In conformity with Orders of Government bearing date the 14th instant, No. 672, a copy of which is annexed. I am directed by the Sudder Board of Revenue to request that all Collectors and other officers employed on Settlement duty within your jurisdiction may be instructed to exclude from their estimates of Assets the item variously termed "Bhitouree," or "Mohtiorfah."—*Letter to the Commissioner of Revenue. Cir. Ord. S. B. R. No.* 10, *May* 29, 1839.

I am directed by the Honourable the Deputy Governor of Bengal to acknowledge the receipt of Mr. Bignell's letter, No. 167, of the 3rd ultimo, and in reply, to observe that although the cess termed Bhitouree or Mohtorfah, is considered by the several officers, who have been consulted, to mean ground rent, their definitions shew clearly that it has no property of rent, and is in fact a tax on trades or on capital, and as such, however small in amount at present, it is not such a cess as Government ought to recognize, by levying a share of it, together with their lawful share of "*rent*" properly so called. His honour desires therefore that the item may be invariably excluded from Assets of Settlement.—*Letter to the Offg. Secy. to the Sudder Board of Revenue. Cir. Ord. S. B. R. No.* 672, *May* 14, 1839.

I am directed by the Sudder Board of Revenue to request

you will cause to be noted in the usual Marginal Statements of all Settlement Reports, the date from which the Settlement is to take effect.—*Letter to the Commissioner of Revenue. Cir. Ord. S. B. R. No.* 17, *July* 29, 1839.

SECTION V.

Settlement of Lands under a Hundred Bigahs.

Rule for fixing the amount of the Revenue on the lands specified in Section VI.

The rules in the preceding section, are to be held applicable to the lands specified in Section 6, with this difference, that the proprietor, farmer, dependant talookdar or officer of Government, to whom the revenue may be payable, shall ascertain the produce of the land without subjecting the grantee to any expense, and submit the accounts of it to the Collector, who shall fix the revenue to be paid from the lands in perpetuity, reporting the amount for the confirmation of the Board of Revenue, who are empowered, in cases in which it shall appear to them proper, to increase or reduce the amount. If the proprietor shall agree to pay the revenue required of him, he and his heirs and successors, shall hold the lands as a dependant talook, subject to the payment of such fixed revenue for ever.—*Reg.* XIX. 1793, *Sect.* 9.

SECTION VI.

Assessment of Chur Lands.

1. The attention of the Sudder Board of Revenue having been recently directed, on more than one occasion, to disregard evinced, by Local authorities under their jurisdiction, of those provisions of Regulation XI. of 1825, which recognize the proprietary rights of those Zemindars, to whose estates alluvial accretions may attach themselves, to the soil thus created,—direct me to communicate the following general observations and orders upon the subject.

2. In the permanently settled provinces, all land of alluvial formation appertains to the proprietor of the estate to which a change in the channel of the river has added it,—except when, as contemplated in Clause 3, Section 4, of the Regulation in question, it may be an island separated from the main land by

a channel not fordable "at any season of the year,"—or when it may have accrued to an estate or waste tract, the Zemindaree title of which is vested in Government. And the Sudder Board request your special attention, and that of your subordinates, to that part of Clause 1 of the Section above cited, which lays down, that the right of the party, thereby recognized as proprietor, is exactly co-equal, as regards the land of new formation,* with that by which he holds the estate to which the alluvion has attached itself; whilst, at the same time, the concurrent lien of the State upon its share of the produce of all land formed subsequently to the date of the permanent settlement, is declared with equal distinctness.

3. It follows, therefore, that all proprietors,—circumstanced as above stated,—whether they have, or have not, disputed the claim of the Revenue Authorities to fix an assessment upon newly formed lands of the description contemplated by Clause 1, Section 4, Regulation XI. of 1825,—have a right to admission to terms of permanent engagement, whenever they may think fit to demand it; unless, indeed, the alluvion have been let out in farm, for a specified term, in consequence of their recusance; in which case, as well as while the lands may be held khaus, they are, of course, entitled to Malikanah. It is only necessary to add, that the injunctions of the Honourable Court of Directors against permanent settlements of lands at the disposal of Government, refer exclusively to cases where no party may possess a legal claim to such immunity; and that the Right Honourable the Governor General in Council has expressed himself strongly averse to the conclusion of *temporary* arrangements with persons, upon whom the law has conferred the unqualified right above alluded to.

The following Orders were issued to the Officiating Commissioner of Chittagong, No. 454, on the 30th September, 1834, and further illustrate the Rules regarding alluvion and its settlement.

* By Orders of Government of the 2nd November, 1830, in a case in which it had been represented by a Petitioner that the land resumed was *Chur* land, the Sudder Board were ordered to inquire particularly "whether *subsequently to the Decennial Settlement, any land had been carried away by the river from this very spot,* in which case the property in question might be considered the *restoration of old* rather than an accession of new land, and consequently the *right of the original proprietors*."—Cir. Ord. 12th Nov. 1830.

1. I am directed to acknowledge the receipt of your letter, dated the 6th instant, and to inform you, in reply, that the proprietors of alluvial accretions are entitled by the law, to a settlement of the Government Revenue in perpetuity.

2. The following rules are prescribed by the Board for the guidance of Mr. Deputy Collector Bruce on the point referred to in your letter.

First. The engagement for the Government Revenue ought to be taken from the zemindar, or other proprietor, to whose estate the increment has adjoined, if he be willing to pay the assessment.

Second. If the increment be attached to a subordinate tenure, the holder of that tenure is entitled to the accretion for the duration of his holding thereof; provided he pay an increase of rent according to his engagements, or the established usage that obtains in respect of alluvion where it has taken place. The under-tenant in such case is assessed for the increment by his superior at such rate as is fair and proper, and conformable to the conditions of his lease or talook, and to local custom and the superior, or malik, accounts for the revenue, or Government share of the rent, to the Exchequer: the latter is the party with whom the Collector ought to treat.

Third. When the zemindar is recusant, the settlement ought to be made with the under-tenant, or the land held khaus or farmed, as may be most expedient.

Fourth. Whenever there is a right of property or permanent interest, as there must always be, in alluvial increments to permanently assessed estates, the zemindars of such permanently settled estates are entitled to engage for the revenue assessed upon the new land, in perpetuity; and whenever there exists not this right of property, or permanent interest, the orders of the Honourable the Court of Directors forbid a perpetual assessment.—*Letter to the Commissioners of Revenue. Cir. Ord. S. B. R. No.* 12, *April* 30, 1833.

SECTION VII.

Confirmation of Settlements.

Settlements of land revenue re-

No settlement of Land Revenue shall be concluded by the Sudder Board, or be held binding upon Government, unless

the same shall have been formally confirmed by the Governor General in Council.*—*Rules of Practice, Rule* 1.

quire confirmation by Government. See Note.

Settlements to be made by Collectors or Deputy Collectors subject to S. B. R. and Government.

Settlement shall be made in the manner prescribed by the regulations, by the Collectors or Deputy Collectors, subject to the Commissioners, the Sudder Board, and the Government. —*Rules of Practice, Rule* 2.

Rules in regard to a settlement under report to a Commissioner, and how far the Collector's proceedings are binding in that stage.

If a Commissioner shall approve a settlement, he shall refer the same to the Sudder Board, without passing any order. If he shall desire further information, he will require it previously to reporting to the Sudder Board: or, if the Commissioner shall disapprove of the settlement, he may immediately interpose; but, excepting in Special cases, any order which may be passed by a Commissioner touching the assessment, shall be prospective, and shall take effect only from the next ensuing season of cultivation; namely, the month of Jeth; and the Collector's settlement shall stand for the current year, unless where a proprietor may apply to engage in lieu of a stranger farmer, or where there shall be manifest fraud.—*Rules of Practice, Rule* 3.

Rules in regard to a settlement under report to the Sudder Board.

If the Sudder Board shall approve a settlement forwarded by a Revenue Commissioner, it shall not be necessary to pass any order thereon, but they shall report the general result to Government; or if they shall disapprove the settlement, they shall interfere, subject to the same principles as apply to the Commissioners; but the arrangements which may be made shall not be disturbed during the current year, unless in special cases, where it may appear that a proprietor has been wrongfully dispossessed of his lands.—*Rules of Practice, Rule* 4.

1. I am directed to transmit for your information and guidance copies of a letter from the Secretary to the Government of Bengal, dated the 10th instant, No. 1439, and of the accompanying correspondence from which you will perceive that you are authorized to confirm.

"1*st*. Ryotwar Settlements for a period not exceeding 20 years.

2*ndly*. Temporary Settlements or farms of Mehals of which the Maliks or persons entitled to a Settlement in perpetuity

* This Rule now applies only to *permanent settlements*, and any settlements, *to the exclusion of maliks*. In regard to permanent settlements, there is, moreover, an exception as to *Jageers of invalids*. For the powers of the Sudder Board to confirm temporary settlements or leases, see note to XI. R. P. C. and Orders therein referred to.

are recusant and therefore excluded, for a period not exceeding Ten years.

3rdly. All ordinary temporary Settlements for a period not exceeding Twenty years.

4thly. All temporary Settlements preparatory to a permanent one.

2. Settlements confirmed under the above orders being all subject to a Special appeal to the Board on the part of any person deeming himself aggrieved and to a special reference on sufficient cause shewn at the instance of the Settling Officer.

3. You will be pleased to furnish a Quarterly return in duplicate according to the accompanying Form of all the Settlements and forms confirmed by you.

4. You will promulgate in a manner likely to give general information the license given to appeal to this Board.—*Letter to the Commissioner of Revenue. Cir. Ord. S B. R. No.* 78, *October* 27, 1837.

Estates liable to Sale, pending confirmation of the Settlement, when the Proprietors have come under engagements, in perpetuity.

I am directed by the Sudder Board of Revenue to transmit to you, for your information, and that of the officers subordinate to you, a copy of a letter, No. 1303, of the 20th ultimo, from the Secretary to Government in the Revenue Department, ruling that Estates of which proprietors have actually come under engagements, agreeing to a settlement in perpetuity, although such settlement may not have been sanctioned by Government, are liable to sale for the recovery of an arrear of revenue, subject to a report to, and the sanction of, Government, in like manner with the sales of all estates not settled in perpetuity.—*Letter to the Commissioners of Revenue. Cir. Ord. S. B. R. No.* 46, *Oct.* 5, 1836.

Letter from the Secretary to the Government of Bengal, Revenue Department, to the Secretary, Sudder Board, No. 1303, *dated the* 20*th September,* 1836.

1. I am directed by the Right Honourable the Governor of Bengal to acknowledge the receipt of your letter, dated the 7th instant, with its enclosures, and to request that you will inform the Board in reply that, for the reasons stated by Mr. Commissioner Tucker and Mr. Smith, his Lordship is of opinion that Estates of which the proprietors have formally consented to a settlement in perpetuity, and have actually come under engagements accordingly, though the settlement have

not been confirmed by Government, are equitably liable to sale for the recovery of arrears of Revenue; and the Governor concurs with Mr. Smith, that the real interests of the proprietors themselves will be best consulted by the judicious, but firm and consistent pursuance of a course, which will prevent them from running into those heavy balances, which have so often proved ruinous to parties, allowed to continue in possession of their estates pending appeal, in conformity with Regulation II. of 1819, an analogous case.

2. Every exertion should be made to guard against all delay in deciding upon the confirmation of settlements, and all reasonable consideration will, of course, be given to the proprietors previously to proceeding to sale; but they must be impressed with the conviction, that that coercive process will unquestionably be resorted to, if rendered indispensable by their lengthened default; and that the sale, if strictly legal, will be upheld by Government, to whom it must be reported, in common with the sales of all Mehals not settled in perpetuity.—*Cir. Ord. S. B. R. No.* 46, *October* 5, 1836.

ADDENDA.

Letter from the Secretary of the Board of Revenue to the Commissioner of Revenue, dated the 3d March, 1841.

1. In Circular Orders of the 16th September, No. 34, it was remarked that cases of the nature contemplated in Rule 1 of the Rules passed by the Government of India on the 14th October 1839, would generally come under the cognizance of officers employed on the settlement of Government Khaus and Resumed Mehals. There may, however, be cases on the files of the Special Deputy Collectors, which it will be necessary to report for the Board's sanction to their release, I am therefore desired to request that you will call upon the Special Deputy Collectors in your division to report immediately according to the annexed form all cases of the nature referred to.

2. It will not of course be necessary to include in the report cases in which the claim to assessment is in itself untenable, as for instance, cases of lands held under Hookamee Sunnuds, and situated within the limits of permanently assessed estates.

3. Two forms of Sunnuds of relinquishment are inclosed, one for cases relinquished in the course of settlement; the other for cases reported by the Special Deputy Collectors.

Statement of Lakheraj Tenures proposed to be relinquished under Rule 1 *of the Rules passed by the Government of India on the* 14*th October* 1839, *and reported for the orders of the Sudder Board of Revenue.*

No. on File.	Name of Lakhirajdar.	Extent of Tenure and where situated.	Nature of Tenure.	Remarks.

Letter from the Special Commissioners of the Calcutta and Moorshedabad Divisions, to the Special Deputy Collectors and the Commissioner of the Soonderbuns, dated 12*th April,* 1841.

It appearing, that although the usual form of Oath administered to Hindoos and Mussulmans has been abolished by Act No. V. of 1840,* yet it is continued to be observed in some of the resumption Courts, we beg leave to direct that you will observe the Law above cited, should it not already have been in operation in your Court, and to enjoin the uncovenanted Deputy Collectors under your control to do so. You are further requested to get a form of the Declaration now authorized from the Civil Court and adopt it in your own.

Letter from the Special Commissioner of the Calcutta Division, to the Special Deputy Collectors and the Commissioner of the Sunderbuns, dated the 31*st May,* 1841.

I have the honour to annex extract para. 1 from a letter from the Government of Bengal, No. 704, dated the 18th instant, and para. 2d of Mr. Secretary Maddock's reply, No. 58, dated 26th ultimo, to which it gave cover, also copy of the rule passed by the Supreme Government and alluded to in the last mentioned communication, for your information.

A copy of modified rules when resolved upon and approved of by the Government of Bengal, shall be communicated to you in due course.

N. B. The same Circular issued from the Moorshedabad Division under the same date.

Extract (para. 1*st) from a letter from Mr. F. J. Halliday, Secretary to the Government of Bengal, Revenue Department, No.* 704, *dated* 18*th May,* 1841.

Par. 1st. I am directed by the Right Honourable the Governor of Bengal to forward, for your information, copy of a letter from this Government to the Right Honourable the Governor General in Council, and Mr. Maddock's letter in reply, No. 58,

* Passed 24th Feb. 1840.

dated the 26th ultimo, and also of the Rule referred to in the 2d. para. which you are requested to act upon, and to promulgate in the Districts under your jurisdiction.

Extract (para. 2d) from a letter from Mr. T. H. Maddock, Secretary to the Government of India, Legislative Department, No. 58, under date the 26th April, 1841, to the Secretary to the Government of Bengal.

Para. 2. The Governor General in Council is satisfied of the necessity for modifying the existing rules of practice so as wholly or partly to dispense with the copying of Resumption officers to the appeal petitions presented to the Special Commissioners. These objects may be obtained by a mere modification of the 5th, 8th and 18th Rules of Practice, and a draft of a rule for that purpose is herewith forwarded to be promulgated, if the Governor of Bengal should think fit, in the districts under His Lordship's Government.

Rules of Practice (alluded to in the above paragraph) for modification of Rules 5, 8, 15, 18, of the Rules of Practice, dated 21st August, 1828.

The Special Commissioners shall, with the sanction of the Governor of Bengal, make from time to time such rules for the making of copies of Resumption Records by the Lower Courts previous to transmitting them to the Appeal Court, and for the taking and filing of replies on the part of Government to appeals pending before them, as they may deem expedient.

Letter from the Special Commissioner of the Calcutta Division, to the Special Deputy Collectors and Commissioner of the Sunderbuns, dated the 23d June, 1841.

In continuation of the 2d paragraph of my Circular, No. 248, of the 31st ultimo, I have the honour to annex for your guidance copy of modified Rules of Practice, submitted for the sanction of the Government of Bengal and approved of by the Right Honourable the Governor of Bengal on the 15th instant.

N. B. The same Circular issued from the Moorshedabad Division under the same date.

Modified Rules of Practice submitted by the Special Commissioners and approved by the Government of Bengal, 15*th June,* 1841.

Rule 1. Whenever appeals against Resumption decrees shall be admitted by the Special Commissioners and the original records of the suits are accordingly called for, it shall not be incumbent on any Collector, Special Deputy Collector, or other resumption officer to make a complete copy as heretofore of the record, but merely of the documentary proofs, the copies of which together with a *list* of the papers shall be transcribed, compared and signed for retention in his office previous to transmission of the original record.

Rule 2. Whereas the replies on the part of Government to the objections or grounds of appeal in resumption cases have been deemed superfluous, it shall not be incumbent, as heretofore, on the Special Commissioners to call for, and the Agent of Government to file replies on the part of Government to such grounds of appeal. Provided however in special instances when new matter of reply is really needed, it shall be competent to the Special Commissioners to call upon the Government agent for such information as may be required, and the same principle shall be observed whenever individuals are respondents.

No. 408.

Letter from the Special Commissioners of the Calcutta and Moorshedabad Divisions, to the Collectors, Special Deputy Collectors under the Jurisdiction of the Special Commissioners of the Calcutta and Moorshedabad Divisions, dated 8*th Sept.* 1841.

An instance having come to the knowledge of the Court wherein stamped paper was required from a Talookdar in a case arising from resumption operations, we direct that whenever any party opposes the claim of Government alleging that the land resumed forms a component part of an estate paying rent, that the suit with such party be carried on agreeably to the principles of Clause 10, Sect. 5, Reg. 9, 1825, and Clause 1, Sect. 4, Reg. 3, 1828.

You are requested to circulate the above instructions to

your uncovenanted deputies, who may be vested with the judicial cognizance of resumption suits, and to any Superintendent of Settlement of the Khaus and Resumed Mehals that may be in your jurisdiction.

Extract from the letter of Mr. Halliday, Secretary to the Government of Bengal in the Revenue Department, to Mr. E. Currie, Secretary to the Board of Revenue, dated the 4th January, 1842.

5. The Board propose in the Moorshedabad and other districts, that when the identification of land proves impossible, or so difficult as not to justify the expence and trouble which the attempt may occasion to all parties, the Special Deputy Collectors should make special report to the Commissioner and ask leave to strike the case concerned out of his file. The Governor would dispense with the Special report and desires that in all such cases the Special Deputy Collector be allowed to dismiss the suit, leaving the Revenue Commissioner to appeal if he should think proper.

12. Mr. Torrens has suggested that "when the Lakherajdar is not forthcoming, and there are no government records to assist in identification of the land, the proceedings should cease without mofussil enquiry and the circumstance should be reported to the Commissioner. The Commissioner has approved of this suggestion. The Board have apparently not noticed it. In His Lordship's opinion the rule proposed may properly be made general, and the Board are requested to instruct the Resumption officers accordingly. But in the cases intended by this Rule, no report need be made to the Commissioner.

13. The Governor sees no reason to be dissatisfied with the general working of the 50 biga order. On the contrary it may be gathered from the elaborate returns of Mr. Torrens, and the less careful report of Mr. Lowth, besides what is to be found in Mr. Hampton's and Mr. Campbell's communications, that the order in question was much required and will do good. Many thousand bigas in each district are scattered in very small patches over separate and often distant villages. The identification, resumption, settlement, management and preservation of such petty parcels, if in general practica-

ble, which is in a high degree doubtful, could never be worth the great and perhaps continual expense of the operation to Government, and the widely spread and often *permanent* harassment they would cause to individuals. It may be true (though it is very unlikely to have happened in many cases) that the 50 biga order will occasionally benefit rich men and do nothing for the poor; but this objection might with equal reason have been made to the 100 biga exemption of 1793, and to every similar order or exemption that could have been devised. Wherever the line had been drawn, the good fortune of those who fell just on one side of it would have been viewed with dissatisfaction by those who remained just on the other side, and it might as certainly have been expected to happen, that some of the former should be rich men and some of the latter poor; still if it can be shewn that in a large number of cases, it does actually happen that the smaller holders above 100 bigas hold in large patches of 50 bigas and upwards, and the large holders in many small patches of less than 50 bigas, so that most of the richer holders escape, and most of the poorer suffer resumption, His Lordship will by no means object to consider how it can be amended. And he requests that the Board will, with this view, ascertain and report with all possible expedition the actual working of the order in this respect, and also in communication with the Commissioners, make such suggestions as may occur to them for rectifying any error of this kind that their report may prove to have been committed.

17. The subject of River Churs should, His Lordship conceives, undergo a careful examination. Upon the system at present followed, there would seem to be no probable end to the harassing litigation of Government against its zemindars which has already so long continued. The reports of the Board now under consideration, shew after so many years and so many suits decided, an enormous quantity of alluvion yet in dispute, the suits concerning which, though already far beyond the means of the existing agency, are sure to increase in every succeeding year. Much of what is now done after long years of litigation, is often rendered useless by a sudden change in a river, what may produce at the same time new Churs and new causes of law suits; and the people are exposed to frequent extortion by spies and enemies.

18. The Board's enquiries should be directed, first, to the question whether it be necessary to prevent loss to the Government by deluvion, that it should have the power of assessing all alluvion. *Secondly.* If it be on that or any other account necessary to assess alluvion as it forms, whether a more prompt and inexpensive, and a less harassing mode than the present, could not be devised and adopted.

19. The Board will of course call on the Commissioners for their assistance in framing their report on this important subject, and Mr. Ricketts will also be requested to furnish his opinion upon it.

Extract from the orders of the Right Honourable the Governor of Bengal in the Revenue Department under date the 25*th January,* 1842, *No.* 126.

The Right Honourable the Governor of Bengal is pleased, with the sanction of the Supreme Government, to authorize the assimilation of the 21st Section of the Rules of Practice annexed to Regulation III. 1828, to Clause 2, Section 6, Regulation II. 1819, as recommended by the Special Commissioners of the Calcutta and Moorshedabad Divisions.

No. 43.

Letter from the Special Commissioners to the Judges, Collectors, Special Deputy Collectors, Superintendents of Settlement, Deputy Collectors of Furreedpore, Bancoorah, Maldah, Pubna, and Bograh, and the Commissioner of Sunderbuns under the Jurisdiction of the Special Commissioners of Calcutta and Moorshedabad, dated 3*d Feb.* 1842.

It has been brought to the notice of the Court that returns to their Precepts are often sent without the number of the appeal on the file of this Court to which each Precept belongs being specified. This occasions serious inconvenience in as much as it takes up much of the Record-keeper's time by the names of parties alone to trace out the nutthee of an appeal in order to file the return thereon. May we therefore request you will give particular directions to the officers concerned, in forwarding returns, to the Precepts of this Court or proceed-

ings in pursuance thereof invariably to insert the number of the appeal, on each return or proceeding transmitted, which number might be easily come to by reference to the Precept to which partial or complete return is made.

No. 44.

Letter from the Special Commissioners, to the Collectors, Special Deputy Collectors, in and under the Jurisdiction of the Calcutta and Moorshedabad Special Commissioners, dated 4th Feb. 1842.

In continuation of our letter, Circular, No. 408, of the 8th September last, directing that Stampt Paper should not be required from the parties in suits of the first instance opposing the claim of Government to the Revenue of Lakheraj lands, we beg leave to inform you that on a reference made by the Special Deputy Collector of Midnapore on the subject of that Circular wishing to be informed whether the privilege granted in Clause 10, Section 5, Regulation IX. 1825, extends to Mooktearnamahs, we have ruled that Mooktearnamahs come within the intent of the above mentioned enactment, and are to be drawn upon unstampt paper.

You are requested to give the above Construction the same circulation as was given to our Circular before mentioned.

Letter from the Secretary of the Sudder Board of Revenue to the Commissioners of Revenue, dated the 23d Feb. 1842.

I am directed by the Sudder Board of Revenue to forward for your information, and for communication to the Resumption officers within your jurisdiction, the accompanying extract from a letter addressed to the Secretary to Government in the Revenue Department, No. 556, under date 7th December last, together with a copy of the orders passed by the Right Honourable the Governor of Bengal, No. 168, under date 1st instant, regarding the identification of lands supposed to be held rent free previously to any decree of resumption being passed.

Extract from a Letter addressed to the Secretary to Government in the Revenue Department, No. 556, under date 7th December, 1841.

4. Sect. 7, Regulation II. of 1819 requires that in all cases of towfeer and alluvion a full and particular enquiry into the circumstances and condition of the land at the period of the decennial settlement shall be instituted previous to a decree for assessment, and it is obvious that such an enquiry cannot be made without, not only local identification, but also survey and measurement.* This Section however does not apply to ordinary lakheraj cases, and on these therefore the necessity for identification previously to decision must depend entirely upon the nature of the suit.

5. If the Lakherajdar appears, produces his title deeds, admits his possession of the lands recorded in those deeds, and *boná fide* defends the suit, there is every reason to suppose that the lands so recorded are really held rent-free by him, and in such a case there would seem to be no necessity for local enquiry and identification previous to decision. If however the Lakherajdar appears, but has no title deeds, and seems disposed to admit the claim of Government, much caution is necessary in receiving his evidence as to the fact of his being in possession in as much as a nominal defendant, will of course be very glad to settle at half jumma for lands which either never belonged to him or from which he has been ejected by others, and in these cases the Board would prefer a local enquiry as to the fact of possession before any decision is given. If the defendant's statement is true, he will point out the lands immediately, and no expense or delay worth mentioning need be incurred. If his statement is false, much trouble and expence will be saved either by abandoning the suit, or by instituting it at once against the party in possession, as may appear most expedient.

6. In all undefended cases the Board consider local investigation previous to decision to be absolutely necessary, as the system of resuming lands upon no better grounds than an entry in a taidad cannot lead to any but the most mischievous results. Frequently the statement in the taidad is erroneous or insufficient, but even when correct the lands must in al-

* Vide Circular Order, 25th April, 1836, No. 301.

most every instance have passed into the possession of some person other than the party there named, and that person not being a party to the suit, the decree is a dead letter. In all these cases the lands must be identified before the cases can be decided.

Extract from the Proceedings of the Right Honourable the Governor of Bengal in the Revenue Department, No. 168, under date the 1st February, 1842.

Read the following Documents regarding the instructions proposed to be issued to the Resumption Officers for the identification of land previous to Resumption Letter, No. 556, from the Secretary Sudder Board of Revenue, dated 7th December, 1841.

To Secretary Sudder Board of Revenue, No. 37, dated 28th December, 1841.

To Special Commissioners of Cuttack, Sylhet, Patna, Chittagong, Calcutta, and Moorshedabad, dated the 28th December, 1841.

From Special Commissioner of Moorshedabad, No. 24, dated 17th January, 1842.

Ditto ditto, of Patna, No. 330, dated ditto.

Ditto Commissioner of Chittagong, No. 4, ditto ditto.

Ditto Officiating Commissioner of Sylhet, No. 2, dated 20th January, 1842.

The Governor is of opinon that the Rules proposed by the Board may properly be adopted, with this modification, that the word "identification" be taken to mean the ascertaining that there really exists such a tenure as is to be litigated, and the ascertaining of the possessor. But there need not, His Lordship thinks, be any measurement or ascertainment of boundaries previous to a decree.

Letter from the Special Commissioner of the Moorshedabad and Calcutta Division to the Collectors, Special Deputy Collectors and Superintendent of Settlements under the jurisdiction of the Presidency Special Commissioners, dated 16th June, 1842.

We beg leave to state for your information and guidance that it has been ruled by us that all suits to resume or to hold lakhe-

raj tenures not in excess of 100 bigas situated within an Estate purchased on account of Government must be tried by the Collector of the Zillah with reference to Section 30, Regulation II. 1819, and Section 5, Regulation III. 1828; that consequently, in future claims of the above nature should not be brought under the Provisions of Regulation VII. 1822, and Section 5, Regulation IX. 1825, but Officers in charge of the purchased Estates will bring their actions before the Collector of the Zillah to which the lands may attach, a contrary procedure involving the liability of the reversal of the award.

Letter from the Special Commissioners to the Collectors, Special Deputy Collectors, Superintendents, &c. under the jurisdiction of the Special Commissioners of the Calcutta and Moorshedabad Districts, dated 14*th July*, 1842.

In continuation of our Circular Order, under date the 8th September last, we beg to communicate to you that as the provisions of Clause 10, Section 5, Regulation IX. 1825, appear to be in modification of the rules regarding the exigency of stamped paper prescribed by Regulation II. 1819, it follows that in all cases originating with the Officers of Government for assessing lands held free of rent, stampt paper is not necessary and it is not to be used on the institution of suits of the nature adverted to in our recent Circular Order, dated the 16th ultimo, No. 249.

Rules of Practice in modification of Section 27*th of the Rules of* 21*st August*, 1828, *annexed to Regulation III. of* 1828, *sanctioned by the Supreme Government of India under date the* 16*th September*, 1842.

.. Every person who may appoint an agent, as above authorized, shall execute a regular power of attorney in such agent's name, and the execution of such instrument, which may be written on unstampt paper, shall be attested by any functionary, whether European or native, who is or may be empowered by the Regulations of Government to attest powers of attorney generally.

INDEX,

SHEWING THE REGULATIONS AND CIRCULAR ORDERS QUOTED IN THIS VOLUME.

Year.	Reg.	Sect.	Cl.	Page.
1793	1	8	4	77
"	8	16		80
"	"	17		81
"	"	18		80
"	"	76		81
"	"	84		81
"	14	3		132
"	19	"		11
"	"	2	1	11
"	"	"	2	12
"	"	"	3	21
"	"	"	4	22
"	"	"	5	23
"	"	3	1	17
"	"	"	2	18
"	"	"	3	18
"	"	"	4	26
"	"	4		62
"	"	5		62
"	"	6		63
"	"	7		64
"	"	8	2	212
"	"	"	3	212
"	"	9		218
"	"	10		71
"	"	11		64
"	"	"		187
"	"	15		132
"	"	17		136
"	"	18		136
"	"	20		31
"	"	21	1	44
"	"	"	2	44
"	"	"	3	45

Year.	Reg.	Sect.	Cl.	Page.
1793	19	22		37
"	"	23		37
"	"	24		31
"	"	25		33
"	"	26		34
"	"	27		34
"	"	28		36
"	"	29		37
"	"	30		38
"	"	31		38
"	"	32		38
"	"	33		39
"	"	34		39
"	"	35		40
"	"	36		40
"	"	37		40
"	"	38		40
"	"	39		40
"	"	40		41
"	"	41		41
"	"	42		42
"	"	43		42
"	"	44		42
"	"	45		43
"	"	46		43
"	"	48		18
"	37	Preamble,		1
"	"	ditto,		4
"	"	2	1	6
"	"	"	2	7
"	"	"	3	20
"	"	"	4	21
"	"	"	5	21
"	"	3	1	19

Year.	Reg.	Sect.	Cl.	Page.
1793	37	4		63
,,	,,	6		211
,,	,,	10		193
,,	,,	12		136
,,	,,	13		137
,,	,,	15		31
,,	,,	17		45
,,	,,	18		45
,,	,,	19		34
,,	,,	20		34
,,	,,	21		34
,,	,,	22		34
,,	,,	23		36
,,	,,	24 to 41		45
,,	43	33	1	94
,,	,,	,,	2	95
,,	,,	,,	3	95
,,	,,	,,	4	95
,,	,,	,,	5	95
,,	,,	,,	6	95
,,	,,	,,	7	95
,,	,,	,,	8	95
,,	,,	,,	9	96
,,	,,	,,	10	96
,,	,,	,,	11	96
,,	,,	,,	12	96
,,	,,	,,	13	97
,,	,,	,,	14	97
1795	27	5	4	78
,,	41	2	1	12
,,	,,	,,	2	12
,,	,,	,,	3	23
,,	,,	,,	4	23
,,	,,	,,	5	23
,,	,,	3	1	18
,,	,,	,,	3	27
,,	,,	6		64
,,	,,	7		65
,,	,,	10		71
,,	,,	11		65
,,	,,	17		137
,,	,,	18		137
,,	,,	20		31
1795	41	22		45
,,	,,	23		45
,,	,,	24		34
,,	,,	25		34
,,	,,	26		34
,,	,,	27		34
,,	,,	28		36
,,	,,	29 to 46		45
,,	42	2	1	5
,,	,,	,,	2	7
,,	,,	,,	3	7
,,	,,	,,	4	21
,,	,,	,,	5	21
,,	,,	,,	6	21
,,	,,	3	1	19
,,	,,	12		137
,,	,,	13		137
,,	,,	15		31
,,	,,	17		45
,,	,,	18		45
,,	,,	19		34
,,	,,	20		34
,,	,,	21		34
,,	,,	22		34
,,	,,	23		36
,,	,,	24 to 41		45
,,	43	1		97
,,	,,	2	1	98
,,	,,	,,	2	98
,,	,,	,,	3	98
,,	,,	,,	4	98
,,	,,	,,	5	98
,,	,,	,,	6	98
,,	,,	,,	7	99
,,	,,	,,	8	99
,,	,,	,,	9	99
,,	,,	,,	10	99
,,	,,	,,	11	100
,,	,,	,,	12	100
,,	,,	3		100
,,	,,	4		100
,,	58	3		54
1797	6	2	2	77

Year.	Reg.	Sect.	Cl.	Page.
1800	8	2		48
,,	,,	3	1	49
,,	,,	,,	2	49
,,	,,	,,	4	49
,,	,,	4		50
,,	,,	5		50
,,	,,	6		51
,,	,,	7		52
,,	,,	8		52
,,	,,	9		53
,,	,,	10		53
,,	,,	11		46
,,	,,	12		46
,,	,,	15		47
,,	,,	16		48
,,	,,	19		35
,,	,,	21		55
803	25	32		78
,,	,,	35	4	79
,,	31	2	1	13
,,	,,	,,	2	15
,,	,,	,,	3	16
,,	,,	,,	4	23
,,	,,	,,	5	23
,,	,,	,,	6	23
,,	,,	,,	7	27
,,	,,	3	1	18
,,	,,	6		71
,,	,,	15		31
,,	,,	19		35
,,	,,	20		35
,,	,,	21		35
,,	,,	22		35
,,	,,	23		36
,,	,,	40		54
,,	36	2	1	5
,,	,,	,,	2	7
,,	,,	,,	3	7
,,	,,	,,	4	21
,,	,,	,,	5	21
,,	,,	,,	6	21
,,	,,	3	1	20
,,	,,	15		31

Year.	Reg.	Sect.	Cl.	Page.
1803	36	19		35
,,	,,	20		35
,,	,,	21		35
,,	,,	22		35
,,	,,	23		36
1804	1	2		100
,,	,,	3		100
,,	,,	4		100
,,	,,	5		101
,,	,,	6		101
,,	,,	7		101
,,	,,	8		101
,,	,,	9	1	102
,,	,,	,,	2	102
,,	,,	,,	3	102
,,	,,	,,	4	102
,,	,,	,,	5	106
,,	,,	,,	6	106
,,	,,	,,	7	108
,,	,,	,,	8	102
,,	,,	,,	9	108
,,	,,	,,	10	109
,,	,,	,,	11	109
,,	,,	,,	12	108
,,	,,	,,	13	102
,,	,,	,,	14	108
,,	,,	,,	15	109
,,	,,	,,	16	109
,,	,,	,,	17	103
,,	,,	10		103
,,	,,	11		103
,,	,,	12		108
,,	,,	13		103
,,	,,	14		104
,,	,,	15		104
,,	,,	16		104
,,	,,	17		101
,,	,,	18		104
,,	,,	19		105
,,	,,	20		105
,,	,,	21	1	106
,,	,,	,,	2	106
,,	,,	27		94

Year.	Reg.	Sect.	Cl.	Page.
1805	2	2	1	112
"	"	"	2	113
"	8	21		13
"	"	"		16
"	"	"		19
"	"	"		28
"	"	" and 24		31
"	"	" ditto		35
"	"	" ditto		36
"	"	"		71
"	"	24	1	5
"	"	"	"	7
"	"	"	2	5
"	"	"		21
"	"	" and 25		36
"	9	22		79
"	"	25	4	80
"	12	8		28
"	"	9		80
"	"	18	1	13
"	"	"	2	17
"	"	"	4	23
"	"	"	5	23
"	"	"	6	23
"	"	"	7	28
"	"	19		19
"	"	"		71
"	"	23		35
"	"	24		31
"	"	"		36
"	"	25		5
"	"	"		31
"	"	"		36
"	"	26	1	6
"	"	"	2	7
"	"	"	3	7
"	"	"	4	21
"	"	"	5	21
"	"	"	6	21
"	"	27		20
"	"	29		35
1808	4	2		72
..	..	5		73

Year.	Reg.	Sect.	Cl.	Page.
1808	4	6		73
"	"	"		74
"	7	"		35
"	"	2		36
"	"	3		36
"	11	Preamble,		107
"	"	2		106
"	"	3		106
"	"	4		108
1815	1	2		81
"	"	3		82
"	"	4		82
"	"	5		82
"	"	6		82
1816	2	2		73
"	"	5		74
"	5	2		74
"	"	5		74
1817	12	22		130
"	"	23		132
"	"	26		133
"	"	27		133
1819	2	Preamble,		115
"	"	3	1	83
"	"	"	2	88
"	"	"	3	91
"	"	4		82
"	"	5	1	115
"	"	"	2	125
"	"	"	3	125
"	"	"	4	125
"	"	"	5	125
"	"	"	6	126
"	"	6	1	128
"	"	"	2	128
"	"	7		129
"	"	8		129
"	"	9		130
"	"	10		130
"	"	11	1	131
"	"	"	2	131
"	"	12		132
"	"	13	1	133

Year.	Reg.	Sect.	Cl.	Page.
1819	2	13	2	134
”	”	”	3	134
”	”	14		135
”	”	15		138
”	”	16		138
”	”	17		138
”	”	18		138
”	”	19	1	139
”	”	”	2	139
”	”	”	3	139
”	”	20		140
”	”	21	1	140
”	”	”	2	141
”	”	”	3	141
”	”	”	4	141
”	”	22	1	141
”	”	”	2	142
”	”	”	3	142
”	”	”	4	142
”	”	”	5	142
”	”	23		142
”	”	24	1	143
”	”	”	2	143
”	”	27		142
”	”	28	1	137
”	”	”	2	137
”	”	29		72
”	”	30	1	187
”	”	”	2	189
”	”	”	3	189
”	”	”	4	189
”	”	”	5	189
”	”	”	6	190
”	”	”	7	190
”	”	”	8	190
”	”	”	9	191
”	”	”	10	191
”	”	”	11	191
”	”	”	12	191
”	”	31	1	84
”	”	”	2	84
822	7	23	1	139
”	”	25		140

Year.	Reg.	Sect.	Cl.	Page.
1822	7	28		140
1825	9	5	2	93
”	”	”		115
”	”	”		126
”	”	”	3	156
”	”	”	4	127
”	”	”	5	129
”	”	”	6	129
”	”	”	”	116
”	”	”	8	135
”	”	”	9	139
”	”	”	10	136
”	”	”	11	194
”	”	6		116
”	”	7		116
”	”	8		72
”	11	4	1	88
”	”	”	2	88
”	”	”	3	89
”	”	”	4	89
”	”	”	5	89
”	13	1		76
”	”	2		76
”	”	”		199
”	”	3		77
”	”	”		199
”	”	4		203
”	”	5		198
”	14	2		2
”	”	3	1	14
”	”	”	2	14
”	”	”	”	23
”	”	”	3	24
”	”	”	4	24
”	”	”	5	5
”	”	”	6	8
”	”	”	7	2
”	”	”	8	15
”	”	”	9	17
1828	3	Preamble,		162
”	”	2	1	162
”	”	”	2	162
”	”	”	3	163

Year.	Reg.	Sect.	Cl.	Page.
1828	3	2	4	163
”	”	”	5	164
”	”	”	6	164
”	”	”	7	165
”	”	3		165
”	”	4	1	117
”	”	”	2	146
”	”	”	”	147
”	”	”	3	147
”	”	”	4	148
”	”	”	5	165
”	”	”	6	166
”	”	5		195
”	”	6	1	172
”	”	”	2	166
”	”	”	3	167
”	”	”	4	168
”	”	”	5	168
”	”	”	6	168
”	”	”	7	168
”	”	7	1	166
”	”	”	2	167
”	”	8		168
”	”	9		169
”	”	10	2	144
”	”	”	3	144
”	”	”	4	144
”	”	”	5	145
”	”	11	1	55
”	”	”	2	56
”	”	”	3	56
”	”	12		25
”	”	”		58
”	”	13	1	92
”	”	”	2	93
1828	3	1	App.	173
”	”	2		173
1828	3	3	App.	173
”	”	4		173
”	”	5		174
”	”	6		174
”	”	7		174
”	”	8		175
”	”	9		175
”	”	10		175
”	”	11		176
”	”	12		176
”	”	13		176
”	”	14		176
”	”	15		176
”	”	16		177
”	”	17		177
”	”	18		177
”	”	19		178
”	”	20		178
”	”	21		178
”	”	22		183
”	”	23		183
”	”	24		183
”	”	25		183
”	”	26		184
”	”	27		184
”	”	28		184
”	”	29		184
”	”	30		185
”	”	31		185
”	”	32		185
”	”	33		186
”	”	34		186
”	”	35		186
”	”	36		186
1829	4	2	1	164
”	”	”	2	164
1832	7	13		191

Government Orders.

					Page.
1840.	Aug.	17.	Rule	1, ...	28
"	"	"	"	2, ...	29
"	"	"	"	3, ...	29
"	"	"	"	4, ...	30
"	"	"	"	5, ...	25
"	"	"	"	6, ...	25
"	"	"	"	7, ...	26
"	"	"	"	11, ...	26
"	"	"	Par.	9, ...	8
"	"	"	"	10, ...	61

Circular Order of the Sudder Dewanny Adawlut.

1833. Aug. 30. No. 95, ... 189

General Rules of Practice.

	Page.
Rule 1, ...	221
2, ...	221
3, ...	221
4, ...	221
36, ...	145
37, ...	146
38, ...	148
39, ...	148
40, ...	153
52, ...	109

INDEX

TO THE

CIRCULAR ORDERS OF THE SUDDER BOARD OF REVENUE.

Year.	Date.						Page.
1829	Aug.	18	No.	40			57
1830	Feb.	5	„	10			171
„	Sept.	10	„	62			177
„	Oct.	1	„	66			149
„	„	15	„	68			126
„	Nov.	12	„	76			89
1831	Sept.	6	„	45			145
1833	April	30	„	12			90
„	„	„	„	„			220
„	„	„	„	227			111
„	Nov.	12	„	29			159
1835	Nov.	16	„	55			172
1836	Feb.	22	„	17	Rule	1	208
„	„	„	„	„	„	2	208
„	„	„	„	„	„	3	208
„	„	„	„	„	„	4	209
„	„	„	„	„	„	5	209
„	„	„	„	„	„	6	209
„	„	„	„	„	„	7	209
„	„	„	„	Order		2	210
„	„	„	„	„	„	3	210
„	„	„	„	„	„	4	210
„	„	„	„	„	„	5	211
„	„	„	„	„	„	6	211
„	March	14	No.	11			27
„	April	25	„	22			86
„	Aug.	20	„	39			60
„	Sept.	17	„	44			59
„	Oct.	5	„	46			222
„	„	„	„	„			223
	„	28	„	54			30

Year.		Date				Page.
1837	Jan.	2	No.	1		121
"	"	"	"	"		158
"	"	9	"	4		167
"	"	16	"	7		61
"	Feb.	20	"	15		179
"	"	"	"	"		182
"	March	28	"	21		155
"	April	18	"	22		124
"	"	"	"	28		195
"	May	9	"	30		195
"	"	"	"	31		156
"	"	16	"	33		87
"	"	30	"	40		123
"	June	1	"	43		148
"	"	6	"	48		134
"	"	10	"	52		150
"	"	14	"	62	Rule 1	200
"	"	"	"	"	2	200
"	"	"	"	"	3	204
"	"	"	"	"	...	207
"	"	"	"	"	Rule 1 Cl. 1	204
"	"	"	"	"	" " 2	204
"	"	"	"	"	" 6	202
"	"	"	"	"	" 7	202
"	"	"	"	"	" "	206
"	"	"	"	"	" 8	202
"	"	"	"	"	" "	206
"	"	"	"	"	" 9	202
"	"	"	"	"	" "	206
"	"	"	"	"	" 10	207
"	"	20	"	56		156
"	July	25	"	64		169
"	Aug.	2	"	67		154
"	"	14	"	69		196
"	"	22	"	71		123
"	"	"	"	"		159
"	"	"	"	72		171
"	Sept.	22	"	77		197
"	Oct.	27	"	78		222
"	Dec.	22	"	82		112
1838	Jan.	23	"	13		65
	May	8		796		201

Year.	Date.						Page.
1838	May	8	No.	796			205
„	„	29	„	38			200
„	„	„	„	„			205
„	June	16	„	43			152
„	Aug.	7	„	52			217
„	„	25	„	60			69
„	Sept.	4	„	61			155
„	Oct.	16	„	68			159
„	„	„	„	„			160
„	„	23	„	71			127
„	Nov.	20	„	75			121
„	„	27	„	76			11
1839	Jan.	8	„	1			152
„	April	17	„	1			153
„	May	14	„	672			217
„	„	29	„	10			217
„	July	29	„	17			218
„	Aug.	21	„	22			201
„	Sept.	11	„	23			160
„	Oct.	8	„	27			70
„	Nov.	18	„	28			213
1840	Feb.	26	„	6			206
„	„	29	„	10			151
„	March	14	„	11			28
„	„	18	„	13			147
„	July	29	„	27			203
„	„	„	„	„			207
„	Aug.	12	„	29			197
„	„	„	„	30	Par.	1	214
„	„	„	„	„	„	2	214
„	„	„	„	„	„	3	214
„	„	„	„	„	„	4	214
„	„	„	„	„	„	5	214
„	„	„	„	„	„	6	215

FINIS.

ERRATA.

Page	11	Line	39	after	*No. 76*	read	*Nov. 27.*
,,	82	,,	23	for	*instumrar*	,,	*istumrar*
,,	112	,,	1	,,	*conform*	,,	*confirm*
,,	140	,,	15	,,	*with*	,,	*within*
,,	151	,,	37	,,	*filled*	,,	*filed*
,,	160	,,	25	,,	*Honuor*	,,	*Honour*
,,	213	,,	23	,,	*laws*	,,	*lands*
,,	217	,,	18	,,	*Mohtiorfah*	,,	*Mohtorfah*
,,	218	,,	22	before	*disregard*	insert	*the*